

September 25, 2006

Marlene H. Dortch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte Submission* - WC Docket No. 06-54 - *Petition of Time Warner Cable for Preemption Pursuant to Section 253 of the Communications Act, as Amended*

Ex Parte Submission - WC Docket No. 06-55 - *Petition of Time Warner Cable for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers*

Dear Secretary Dortch:

IDT Telecom, Inc. ("IDT"), by its attorneys, hereby files this letter in support of the Petition for Preemption and the Petition for Declaratory Ruling filed by Time Warner Cable in the above-referenced matters.^{1/} The Petitions filed by Time Warner Cable ask the Federal Communications Commission ("Commission") to (1) preempt a state commission ruling denying Time Warner Cable's affiliate state authority to offer services in areas of South Carolina served by rural incumbent local exchange carriers ("RLECs") and (2) declare that competitive local exchange carriers ("CLECs") may obtain interconnection from RLECs to provide telecommunications services to voice over Internet protocol ("VoIP") service providers.

IDT is a competitive carrier offering local, domestic interexchange, and international telecommunications services to customers located throughout the United States. IDT also provides access services and other telecommunications services to other carriers and VoIP service providers. Despite the Commission's prior findings regarding the intent of the Communications Act of 1934, as amended ("Act"), and the Commission's well-established rules and regulations, IDT is experiencing problems similar to those described by Time Warner Cable and by other commenters in these proceedings. For the reasons set forth below, IDT strongly urges the Commission to grant the Petitions filed by Time Warner Cable and enforce its rules against those carriers that are choosing to ignore them at the expense of American consumers.

^{1/} *Petition of Time Warner Cable for Preemption Pursuant to Section 253 of the Communications Act, as Amended*, WC Docket No. 06-54, Petition for Preemption (filed Mar. 1, 2006) ("Time Warner Petition for Preemption"); *Petition of Time Warner Cable for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Provider*, WC Docket No. 06-55, Petition for Declaratory Ruling (filed Mar. 1, 2006) ("Time Warner Petition for Declaratory Ruling").

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

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Consumers in Rural Areas Deserve Competitive Alternatives

Many competitive voice providers do not target rural areas and instead focus on more lucrative urban and suburban areas. VoIP service providers like Time Warner Cable and those served by IDT, however, are poised to bring competitive alternatives to consumers living in rural areas. Unfortunately, these VoIP service providers frequently are faced with insurmountable barriers to entry in their attempts to bring competition to these neglected regions of the country. As detailed by Time Warner Cable and other commenters in these proceedings, RLECs are refusing to exchange traffic with telecommunications carriers that serve VoIP service providers or provide the necessary facilities for interconnection, in direct violation of the law and Commission precedent.^{2/} Moreover, rather than reject the RLECs' efforts to block competition, some state commissions instead have endorsed the RLECs' protectionist behavior.^{3/} Competition is about providing consumers a choice in the marketplace. RLECs cannot be permitted to rob consumers of their right to choose by limiting who may lawfully exchange traffic with the RLEC. Consumers living in rural areas should not be denied their right to choose a competitive service provider because of RLEC actions that are based on unfounded and inaccurate interpretations of law.

The Act requires telephone companies to open their networks to competition,^{4/} and requires state commissions to implement the Act's pro-competitive mandates.^{5/} Yet, the RLECs' anticompetitive actions, in conjunction with erroneous state commission interpretations of the law, are dealing a substantial blow to competition in rural America. The purpose of the Act and the Commission's rules is to protect consumers from this kind of anticompetitive interference by carriers in the selection of service providers. It is precisely the types of obstacles outlined by Time Warner Cable and others that Congress intended to eliminate by mandating that the Commission promote the deployment of advanced services^{6/} and remove any regulatory, economic, and operational impediments to competition.^{7/} The rural voice market is one of the last frontiers of competition - if RLECs and state regulators are permitted to impose unlawful

^{2/} See, e.g., Reply Comments of Time Warner Cable in Support of Its Petition for Declaratory Ruling, WC Docket No. 06-55, at 13 (filed Apr. 25, 2006); Comments of Level 3 Communications, LLC in Support of Petition for Declaratory Ruling, WC Docket No. 06-55, at 2-3 (filed Apr. 10, 2006); Comments of Comcast Corporation, WC Docket No. 06-55, at 6 (filed Apr. 10, 2006).

^{3/} See, e.g., Reply Comments of Time Warner Cable, WC Docket No. 06-54, at 1 (filed Apr. 25, 2006); Comments of Comcast Corporation, WC Docket No. 06-55, at 6 (filed Apr. 10, 2006).

^{4/} *Implementation of the Local Competition Provisions in the Telecommunications Act 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499, ¶ 1 (1996) ("*Local Competition Order*") (intervening history omitted); *aff'd by AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

^{5/} *Local Competition Order* ¶ 101 (determining that state commissions are bound by the regulations the Commission establishes under Section 251).

^{6/} 47 U.S.C. § 157nt. The Commission has interpreted Section 706 as a directive to the Commission to further Congress's objective of opening all telecommunications markets to competition, including the market for advanced services. See *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 13 FCC Rcd 24011, ¶¶ 69-77 (1998).

^{7/} *Local Competition Order* ¶ 3.

restraints on competitors, voice competition will never develop in these rural areas.^{8/} Indeed, the problems Time Warner Cable and other VoIP service providers face effectively create a “digital divide” between those who can enjoy the benefits of VoIP service and those who cannot.^{9/} Prompt Commission action is therefore needed to ensure that consumers in all areas of the United States receive the benefits of new and innovative product offerings as envisioned by Congress and the Commission.

The Law Supports Time Warner Cable’s Requests

As Time Warner Cable points out, the actions of some state commissions have limited VoIP service providers’ ability to offer consumers a competitive alternative for voice services.^{10/} Even more egregious, many RLECs are using these erroneous state commission decisions and a claimed “uncertainty” in the law resulting from the Petitions filed by Time Warner Cable to deny consumers in rural areas the benefits of a new competitive service offering. The RLECs are wrong. The retail/wholesale distinction created by the RLECs is a fiction designed to undermine the goals of the Act and deny the benefits of local competition and broadband deployment to consumers in order to maintain the RLECs’ monopolist status. The RLECs’ arguments ignore established federal law and misconstrue the plain language of the Act.

As the Commission has recognized, VoIP service providers must purchase telecommunications services from regulated telecommunications carriers like IDT in order to originate and terminate calls on the public switched network, access 911 services, obtain numbering resources, and port telephone numbers.^{11/} By utilizing these types of arrangements, VoIP service providers have been able to enter the market quickly, without the need to enter into drawn-out negotiations with numerous RLECs and without the need to duplicate already existing interconnection facilities.^{12/} The Section 251 services purchased by VoIP service providers are critical to the widespread availability of VoIP, other IP-enabled services, and information services.^{13/}

^{8/} Comments of National Cable & Telecommunications Association, WC Docket Nos. 06-54, 06-55, at 5 (filed Apr. 10, 2006).

^{9/} Initial Comments of the VON Coalition, WC Docket No. 06-55, at 3 (filed Apr. 10, 2006).

^{10/} Time Warner Cable Petition for Declaratory Ruling at 2.

^{11/} See, e.g., *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 38 (2005) (noting that VoIP service providers obtain 911 services from competitive local exchange carriers) (“*VoIP 911 Order*”); *Administration of the North American Numbering Plan*, 20 FCC Rcd 2957, ¶ 4 (2005) (discussing that VoIP service providers must partner with a local exchange carrier to obtain numbering resources); *IP-Enabled Services*, 19 FCC Rcd 4863, ¶ 12 (2004) (recognizing that VoIP service providers obtain telecommunications services from telecommunications carriers in order to provide services to the VoIP service provider’s customers); see also *VoIP 911 Order* ¶ 40 (stating that the FCC expects incumbent local exchange carriers to interconnect for the purposes of providing 911 services to VoIP service providers).

^{12/} Time Warner Petition for Declaratory Ruling at 4.

^{13/} Comments of Global Crossing North America, Inc., WC Docket No. 06-55, at 5 (filed Apr. 10, 2006).

The RLECs, however, claim that they are only required to exchange traffic or port telephone numbers to other carriers if such traffic or port requests originate from the carrier's retail end users.^{14/} The RLECs fail to understand the legal definition of "end users." The provision of telecommunications service to a VoIP service provider is the provision of service to an end user. The FCC has explicitly stated that the provision of wholesale telecommunications services to entities like Time Warner Cable is considered the provision of telecommunications services to an end user by a telecommunications carrier.^{15/} A VoIP service provider is a business end user when it purchases services from telecommunications carriers. In other words, when a telecommunications carrier like IDT carries a VoIP service provider's traffic and exchanges that traffic with RLECs, that traffic is to be treated like any other traffic carried by IDT, and IDT may properly use the interconnection arrangements it has established with other carriers in connection with that traffic. It is an entity's status as a "telecommunications carrier" and its provision of local exchange services that determines its entitlement to interconnection and services under Section 251, not the businesses of its end users.^{16/}

There is nothing in Section 251 that relieves a RLEC of its obligation to interconnect and provide services to other telecommunications carriers simply because that telecommunications carrier is providing service to a customer that uses those services to offer other services to subscribers.^{17/} Members of the alarm industry, mass calling service providers, enhanced service providers, and information service providers have been purchasing similar services for years for these same purposes pursuant to well-established Commission policies.^{18/} RLECs, however, rarely refuse to provide services to these types of providers because these entities are not perceived as a threat to the RLECs' monopoly over voice communications, which further demonstrates how anticompetitive the RLECs' actions are in this regard. The Commission determined it was essential for alarm service providers and others to purchase components of ILEC networks to be able to "design offerings that utilize network services in a flexible and economical manner."^{19/} The same reasoning equally applies to VoIP service providers who need

^{14/} See, e.g., Comments of the South Carolina Telephone Coalition, WC Docket No. 06-55, at 8-9 (filed Apr. 10, 2006).

^{15/} *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905, ¶ 263 (1996) ("the definition of telecommunications services is intended to clarify that telecommunications services are common carrier services, which include wholesale services to other carriers").

^{16/} *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 785 (1997) (finding telecommunications services "include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers").

^{17/} AT&T's Comments, WC Docket No. 06-55, at 2 (filed Apr. 10, 2006).

^{18/} See, e.g., *Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer III)*, 104 FCC 2d 958, ¶ 214 (1986) (adopting open network architecture plans, which required incumbent carriers to separate key elements of their basic services into components and make those components available to enhanced service providers who could then use those components to build new services) (prior and subsequent history omitted).

^{19/} *Id.*

to purchase network components from telecommunications carriers in order to design and offer their services.^{20/}

IDT's Experience Demonstrates the Need for Commission Action

IDT's experience supports the need for prompt Commission action. IDT provides underlying telecommunications services to a provider of VoIP services in Montana, including number portability capabilities. IDT has submitted several requests to port the telephone numbers of consumers that have elected to switch from a RLEC in Montana to the competitive VoIP offering. Although properly documented and made consistent with the requirements of the interconnection agreement between IDT and the RLEC, all of IDT's number portability requests were rejected by the RLEC. After numerous inquiries as to why the port requests were not being completed as required under the Commission's rules, the RLEC informed IDT that it had rejected IDT's requests on the sole ground that the RLEC believed that the port requests were not related to IDT's end users. As a result of the RLEC's refusal to honor IDT's number porting requests, Montana consumers living in the RLEC's area are unable to change service providers and port their telephone number from the RLEC to the provider and service of their choice. IDT has had similar issues with the same RLEC in Colorado.

Although IDT has filed a complaint against the rural ILEC with the Montana Public Service Commission and is considering filing a complaint in Colorado,^{21/} action by the Commission is necessary to eliminate the need to engage in protracted litigation on a state-by-state basis to enforce rights that are well-established under the law.^{22/} The RLEC is denying Montana and Colorado consumers the ability to exercise the right to port their numbers to the provider of their choice by engaging in the precise anticompetitive behavior the Commission's rules were designed to prevent. The Commission consistently has stated that number portability is a critical component of competition because consumers will be unlikely to switch providers if they cannot take their telephone number with them.^{23/} A carrier's obligations to honor number

^{20/} While the Commission recently eliminated *Computer III* requirements for some services, the Commission stressed that its action was limited to wireline broadband Internet access service and its underlying broadband transmission component, which are not the types of services currently being purchased by VoIP service providers. *See Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, et al.*, 20 FCC Rcd 10200, n.15 (2005).

^{21/} IDT has attached copies of several pleadings filed in the ongoing Montana proceeding, as well as a complete index of the filings made to date. IDT is happy to provide copies of additional filings upon request.

^{22/} *See, e.g., Local Competition Order* ¶ 56 ("Further, national rules will reduce the need for competitors to revisit the same issue in 51 different jurisdictions, thereby reducing administrative burdens and litigation for new entrants and incumbents."); *Petition for Declaratory Ruling that pulver.com's Free World Dialup Is Neither Telecommunications Nor a Telecommunications Service*, 19 FCC Rcd 3307, ¶ 25 (2004) (finding that "requiring Pulver to submit to more than 50 different regulatory regimes as soon as it did so would eliminate this fundamental advantage of IP-based communication"); *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404, ¶ 35 (2004) ("in interpreting section 230's phrase 'unfettered by Federal or State regulation,' we cannot permit more than 50 different jurisdictions to impose traditional common carrier economic regulations such as Minnesota's on DigitalVoice and still meet our responsibility to realize Congress's objective").

^{23/} *See, e.g., Telephone Number Portability*, 12 FCC Rcd 12281, ¶ 4 (1997).

portability requests do not depend on whether the carrier requesting the port offers wholesale or retail services. There is no question that all local exchange carriers, including RLECs, are required to interconnect and exchange traffic with, and port telephone numbers to, other carriers.^{24/} Competitive providers like IDT should not be required to resort to litigation simply to obtain the rights they are entitled to under the law.^{25/} The RLEC's refusal to implement IDT's port requests is a direct violation of state and federal local number portability regulations designed to protect consumers and in contravention of state and federal pro-competitive policies.^{26/}

Ongoing Proceedings Confirm the Need for Prompt Commission Action

Several states, including New York, Illinois, Iowa, and Ohio, have correctly ruled that an authorized carrier providing services to a VoIP service provider is deemed to be a telecommunications carrier with rights under Sections 251.^{27/} These state commission rulings are consistent with the Commission's long-standing regulatory treatment of carriers^{28/} and are

^{24/} Comments of Verizon, WC Docket Nos. 06-54, 06-55, at 3 (filed Apr. 10, 2006).

^{25/} Joint Comments of BridgeCom International, Inc., Broadview Networks, Inc. CTC Communications Corp., NuVox Communications, Xspedius Communications LLC, and COMPTTEL, WC Docket No. 06-55, at 2 (filed Apr 10, 2006).

^{26/} See, e.g., *Telephone Number Portability - Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, 18 FCC Rcd 20971, ¶ 11 (2003) (finding that consumers must be able to change carriers while keeping their telephone number as easily as they may change carriers without taking their telephone number with them).

^{27/} Case 05-C-0170, *Petition of Sprint Communications Company L. P., Pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration to Establish an Inter-carrier Agreement with Independent Companies*, Order Resolving Arbitration Issues (N.Y.P.S.C. May 24, 2005) ("New York Order"), on appeal *Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ Action No. 05-CV-6502 (CJS) (MWP) (W.D.N.Y. filed Sept. 26, 2005); Case Nos. 050259, *et al.*, *Cambridge Telephone Company, et al. Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties under §§ 251(b) and (c) of the Federal Telecommunications Act*, Order (I.C.C. July 13, 2005), appeal pending Case No. 3:06-CV-00073, GPM-DGW, *Harrisonville Telephone Company, et al. v. Illinois Commerce Commission, et al.*, Complaint for Declaratory and Other Relief (S.D. Ill. filed Jan. 26, 2006), Motion for Preliminary Injunction and Expedited Discovery (S.D. Ill. filed Aug. 16, 2006); Docket No. ARB-05-02, *Arbitration of Sprint Communications Co. v. Ace Communications Group, et al.*, Order on Rehearing (I.U.B. Nov. 28, 2005); Case Nos. 04-1494-TP-UNC, *et al.*, *Application and Petition in Accordance with Section II.A.2.b of the Local Service Guidelines Filed by: The Champaign Telephone Co., Telephone Services Co., the Germantown Independent Telephone Co., and Doylestown Telephone Co.*, Finding and Order (P.U.C.O. Jan. 26, 2005) ("Ohio Order"), *reh'g denied in pertinent part*, Order on Rehearing (P.U.C.O. Apr. 13, 2005).

^{28/} See, e.g., *Regulatory and Policy Problems Presented by the Interdependence of Computer and Communication Services and Facilities*, 28 FCC 2d 267 (1971) (*Computer I Final Decision*), *aff'd in part sub nom. GTE Service Corp. v. FCC*, 474 F.2d 724 (2d Cir. 1973), *decision on remand*, 40 FCC 2d 293 (1973) (collectively referred to as *Computer I*); *Amendment of Section 64.702 of the Commission's Rules and Regulations (Computer II)*, 77 FCC 2d 384 (1980) (*Computer II Final Decision*), *recon.*, 84 FCC 2d 50 (1980) (*Computer II Reconsideration Order*), *further recon.*, 88 FCC 2d 512 (1981) (*Computer II Further Reconsideration Order*), *aff'd sub nom. Computer and Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982) (*CCIA v. FCC*), *cert. denied*, 461 U.S. 938 (1983) (collectively referred to as *Computer II*); *Amendment of Section 64.702 of the Commission's Rules and Regulations*, 104 FCC 2d 958 (1986) (*Computer III Phase I Order*), *recon.*, 2 FCC Rcd 3035 (1987) (*Computer III Phase I Reconsideration Order*), *further recon.*, 3 FCC Rcd 1135 (1988) (*Computer III Phase I Further Reconsideration Order*), *second further recon.*, 4 FCC Rcd 5927 (1989) (*Computer III Phase I Second Further*

squarely at odds with the South Carolina and Nebraska rulings discussed by Time Warner Cable in its Petitions. In contrast to South Carolina and Nebraska, the Commission and these state commissions have found that the telecommunications services provided to VoIP service providers and other providers of services requiring telecommunications services as an input to offering those services are well within the scope of what telecommunications carriers commonly do and are “no different than [the services] performed by other competitive local exchange carriers.”^{29/} As a result, these state commissions have determined that telecommunications carriers offering services to VoIP service providers were entitled to interconnection, number portability, and other rights under Sections 251 because those telecommunications carriers were “acting in a role no different than other telecommunications carriers whose network could interconnect with [ILECs] so that traffic is terminated to and from each network and across networks.”^{30/}

A ruling from the Commission affirming the well-established law on these issues would ensure a consistent national application of federal law.^{31/} Such a ruling is even more critical in light of the numerous recently decided and pending proceedings that are threatening the promotion of local competition and the deployment of a national broadband policy.^{32/} For example, Sprint recently filed a complaint against Iowa Telecom alleging that Iowa Telecom refused to interconnect with Sprint because Sprint was providing underlying telecommunications services to MCC Telephony, a VoIP service provider in Iowa.^{33/} Likewise, Sprint has a case pending in Texas with another RLEC that has refused to negotiate the interconnection agreement

Reconsideration Order); *Phase I Order and Phase I Recon. Order vacated sub nom. California v. FCC*, 905 F.2d 1217 (9th Cir. 1990) (*California I*); 2 FCC Rcd 3072 (1987) (*Computer III Phase II Order*), *recon.*, 3 FCC Rcd 1150 (1988) (*Computer III Phase II Reconsideration Order*), *further recon.*, 4 FCC Rcd 5927 (1989) (*Phase II Further Reconsideration Order*); *Phase II Order vacated, California I*, 905 F.2d 1217 (9th Cir. 1990); *Computer III Remand Proceeding*, CC Docket No. 90-368, 5 FCC Rcd 7719 (1990) (*ONA Remand Order*), *recon.*, 7 FCC Rcd 909 (1992), *pets. for review denied sub nom. California v. FCC*, 4 F.3d 1505 (9th Cir. 1993) (*California II*); *Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards*, 6 FCC Rcd 7571 (1991) (*BOC Safeguards Order*), *BOC Safeguards Order vacated in part and remanded sub nom. California v. FCC*, 39 F.3d 919 (9th Cir. 1994) (*California III*), *cert. denied*, 514 U.S. 1050 (1995); *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services*, 10 FCC Rcd 8360 (1995) (*Computer III Further Remand Notice*), *Further Notice of Proposed Rulemaking*, 13 FCC Rcd 6040 (1998) (*Computer III Further Remand Further Notice*); 14 FCC Rcd 4289 (1999) (*Computer III Further Remand Order*), *recon.*, 14 FCC Rcd 21628 (1999) (*Computer III Further Remand Reconsideration Order*); *see also Further Comment Requested to Update and Refresh Record on Computer III Requirements*, 16 FCC Rcd 5363 (2001) (collectively referred to as *Computer III*). Together with *Computer I*, *Computer II* and *Computer III* are referred to as the “*Computer Inquiries*.”

^{29/} *New York Order* at 5; *see also supra* nn.15-16, 27.

^{30/} *Ohio Order* at 4-5, ¶ 7; *see also supra* n.27.

^{31/} Time Warner Cable Petition for Declaratory Ruling at 2.

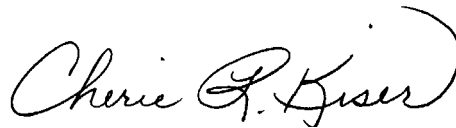
^{32/} *See supra* n.27; *see also* Appendix (providing an overview of pending state and court proceedings of relevance to the issues raised by Time Warner Cable before the Commission).

^{33/} Docket No. FCU-06-49 (ARB-05-2), *Sprint Communications Company L.P. and MCC Telephony of Iowa LLC, Complainant, vs. Iowa Telecommunications Services d/b/a Iowa Telecom, Respondent*, Motion to Enforce Arbitration Agreement (Expedited Relief Requested) or in the Alternative Complaint (Expedited Proceeding Required) (I.U.B. filed July 24, 2006).

with Sprint that Sprint needs to provide telecommunications services to Time Warner Cable.^{34/} In addition, the appeal of the New York commission decision discussed above is pending in federal district court in New York.^{35/} The risk of additional decisions upholding RLECs' refusals to interconnect and provide other services to wholesale telecommunications providers threatens to significantly delay the development of competition in rural areas. The conflicting interpretations of federal law by state commissions therefore warrant prompt Commission action on Time Warner Cable's Petitions.^{36/}

For the foregoing reasons, IDT respectfully requests that the Commission grant Time Warner Cable's Petitions on an expedited basis to ensure that VoIP service providers can obtain the telecommunications inputs they require to offer service and that consumers in rural areas have unfettered access to the competitive service offering of their choice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cherie R. Kiser". The signature is fluid and cursive, with a large loop at the end.

Chérie R. Kiser
Angela F. Collins

Counsel for IDT Telecom, Inc.

Attachments

cc: Michelle Carey (via email and hand delivery)
Scott Deutchman (via email and hand delivery)
Scott Bergmann (via email and hand delivery)
Ian Dillner (via email and hand delivery)
John Hunter (via email and hand delivery)
Tom Navin (via email and hand delivery)
Julie Veach (via email and hand delivery)
Renee Crittendon (via email and hand delivery)
Marcus Maher (via email and hand delivery)
Jeremy Miller (via email and hand delivery)
Jennifer Schneider (via email and hand delivery)

^{34/} See generally PUC Docket No. 31577, *Petition of Sprint Communications Company, L.P. for Compulsory Arbitration under the FTA to Establish Terms and Conditions for Interconnection Terms with Consolidated Communications of Fort Bend Company* (Tx. P.U.C.).

^{35/} *Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ Action No. 05-CV-6502 (CJS) (MWP) (W.D.N.Y. filed Sept. 26, 2005).

^{36/} Comments of National Cable & Telecommunications Association, WC Docket Nos. 06-54, 06-55, at 7 (filed Apr. 10, 2006).

APPENDIX

Overview of Pending State and Court Proceedings of Relevance to Issues Raised by Time Warner Cable before the FCC

In 2004, the President of the United States issued a directive that the mandates of the Communications Act of 1934, as amended (“Act”), requiring “the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans”^{1/} be fully implemented by 2007, with “broadband technology to every corner of our country by the year 2007.”^{2/} As we approach 2007, state actions are undermining the realization of the President’s goal.

The following is a list of several pending state and court proceedings addressing many of the same issues Time Warner Cable has raised before the Federal Communications Commission (“FCC”), including the refusal by rural incumbent local exchange carriers (“RLECs”) to interconnect with telecommunications carriers providing services to voice over Internet protocol (“VoIP”) service providers and claims by RLECs that when telecommunications providers offer such services they are no longer “telecommunications carriers” entitled to exercise their rights under Sections 251 and 252 of the Act.

Illinois

In July 2005, the Illinois Commerce Commission (“ICC”) rejected arguments by several RLECs that Sprint was not a “telecommunications carrier” under the Act because Sprint was not serving end user customers (Sprint was supporting the VoIP services to be provided by MCC Telephony, which is the Mediacom entity providing VoIP services).^{3/} The ICC found that Sprint was a telecommunications carrier and was entitled to interconnect with the RLECs pursuant to Sections 251(a) and 251(b) of the Act.

^{1/} 47 U.S.C. § 157nt.

^{2/} *A New Generation of American Innovation*, at 11 (April 2004), available at http://www.whitehouse.gov/infocus/technology/economic_policy200404/innovation.pdf (“This country needs a national goal for...the spread of broadband technology. We ought to have...universal, affordable access for broadband technology by the year 2007, and then we ought to make sure as soon as possible thereafter, consumers have got plenty of choices when it comes to [their] broadband carrier.”); *see also* President George W. Bush, Remarks to American Association of Community Colleges Annual Convention (Apr. 26, 2004), available at <http://www.whitehouse.gov/news/releases/2004/04/20040426-6.html> (stating that “[b]roadband is going to spread because it’s going to make sense for private sector companies to spread it so long as the regulatory burden is reduced — in other words, so long as policy at the government level encourages people to invest, not discourages investment”).

^{3/} Case Nos. 05-0259, *et al.*, *Cambridge Telephone Company, et al. Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties under §§ 251(b) and (c) of the Federal Telecommunications Act*, Order (I.C.C. July 13, 2005).

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Subsequently, Sprint filed a petition for arbitration against the RLECs. One group of RLECs filed a motion to dismiss arguing that the ICC did not have jurisdiction over the services because they were VoIP services (another group of RLECs filed a motion to dismiss arguing that Sprint was not a telecommunications carrier, and thus, did not have rights under Sections 251 and 252, but those RLECs later reached an interconnection agreement with Sprint). The ICC ruled that the issues raised by the RLECs had been resolved in its July 2005 decision, and determined that the RLECs were required to interconnect with Sprint.^{4/}

The RLECs appealed both ICC decisions to federal district court in January 2006, and more recently asked for the issuance of a preliminary injunction.^{5/} The RLECs contend that Sprint is not acting as a telecommunications carrier in connection with its provision of services to MCC Telephony. There is a hearing on the appeal scheduled in October 2006. Presumably, the consumers located in the service territory covered by these RLECs continue to be denied the benefits of local competition and access to broadband services as intended by the Act.

Iowa

In late 2004, Sprint requested interconnection from Iowa Telecom and later filed a petition for arbitration with the Iowa Utilities Board (“Board”). Iowa Telecom filed a motion to dismiss alleging that Sprint was not a telecommunications carrier because Sprint was only providing service to MCC Telephony (which is the Mediacom entity providing VoIP services). The Board granted Iowa Telecom’s motion to dismiss,^{6/} and Sprint appealed the Board ruling to federal district court.^{7/} While the appeal was pending, the Board reconsidered its previous ruling and found that Sprint is a telecommunication carrier and is entitled to interconnection, and re-opened the prior arbitration proceedings. The Board issued its arbitration order and directed the parties to file an agreement within a short time.^{8/}

On the day the interconnection agreement between Sprint and Iowa Telecom was deemed approved under the Board’s rules, Iowa Telecom sent a letter to Sprint to terminate the interconnection agreement. Although the Sprint-Iowa Telecom interconnection agreement was effective, Iowa Telecom refused to process Sprint’s orders for interconnection facilities or to

^{4/} Case 05-0402, *Sprint Communications L.P. d/b/a Sprint Communications Company L.P. Petition for Consolidated Arbitration with Certain Illinois Incumbent Local Exchange Carriers pursuant to Section 252 of the Telecommunications Act of 1996*, Arbitration Decision (I.C.C. Nov. 8, 2005).

^{5/} Case No. 3:06-CV-00073-GPM-DGW, *Harrisonville Telephone Company, et al. v. Illinois Commerce Commission, et al.*, Complaint for Declaratory and Other Relief (S.D. Ill. filed Jan. 26, 2006); Motion for Preliminary Injunction and Expedited Discovery (S.D. Ill. filed Aug. 16, 2006).

^{6/} Docket No. ARB-05-2, *Sprint Communications Company L.P. v. Ace Communications Group, et al.*, Order Granting Motions to Dismiss (I.U.B. May 26, 2005).

^{7/} Case No. 4:05-CV-00354, *Sprint Communications Company L.P. v. Iowa Utilities Board*, Complaint (S.D. Iowa filed June 23, 2005).

^{8/} Docket No. ARB-05-2, *Sprint Communications Company L.P. v. Ace Communications Group, et al.*, Order on Rehearing (I.U.B. Nov. 28, 2005).

exchange traffic with Sprint. As a result, MCC Telephony could not market its services in Iowa Telecom territory.

In July 2006, Sprint and MCC Telephony filed a complaint with the Board alleging that Iowa Telecom refused to interconnect with Sprint, which prevented MCC Telephony from providing VoIP services.^{9/} Sprint and MCC Telephony claim that Iowa Telecom is violating the Board approved interconnection agreement, the order approving the agreement, and Iowa interconnection and discrimination regulations, and have requested a preliminary injunction and emergency relief. On September 6, the Board rejected Sprint's request for a preliminary injunction and emergency relief, and instead determined it would render its decision on the merits by October 20, 2006.^{10/} The Board found that granting the preliminary injunction would give Sprint the relief it was requesting without trying the case. The Board conducted hearings on the complaint and briefs were filed on September 22. Due to Iowa Telecom's failure to abide by its obligations under the law, consumers in Iowa Telecom's territory have been denied the benefits of local competition and access to broadband services since late 2004.

New York

In February 2005, Sprint filed a petition for arbitration against twelve RLECs. In response, the RLECs claimed that Sprint was not a telecommunications carrier because it was not an ultimate provider of end user services, and thus the RLECs' Section 251(a) and Section 251(b) duties were not triggered. The New York Public Service Commission ("PSC") disagreed, and found that Sprint meets the definition of telecommunications carrier and is entitled to interconnect with the RLECs.^{11/} Most of the RLECs appealed the New York PSC's decision to federal district court.^{12/} Oral arguments on summary judgment motions were held in mid-September and the case is pending. Hopefully, for the sake of consumers, the benefits of local competition and access to broadband services are not being denied pending this appeal.

North Carolina

In March 2006, Time Warner Cable Information Services (North Carolina), LLC ("Time Warner") filed a petition for arbitration with the North Carolina Rural Electrification Authority ("REA") against three RLECs. In addition to the petitions for arbitration, Time Warner filed petitions to terminate the RLECs' rural exemptions to the extent the REA determined that Time

^{9/} Docket No. FCU-06-49 (ARB-05-2), *Sprint Communications Company L. P. and MCC Telephony of Iowa, LLC v. Iowa Telecommunications Services d/b/a Iowa Telecom*, Motion to Enforce Arbitration Agreement or in the Alternative Complaint (I.U.B. filed July 24, 2006).

^{10/} Docket No. FCU-06-49 (ARB-05-2), *Sprint Communications Company L. P. and MCC Telephony of Iowa, LLC v. Iowa Telecommunications Services d/b/a Iowa Telecom*, Order Denying Preliminary Injunction (I.U.B. Sept. 5, 2006).

^{11/} Cases 05-C-0170, 05-C-0183, *Petition of Sprint Communications Company L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Intercarrier Agreement with Independent Companies, et al.*, Order Resolving Arbitration Issues (N.Y.P.S.C. May 24, 2005), Order Denying Rehearing (N.Y.P.S.C. Aug. 24, 2005).

^{12/} Case 05-CV-6502, *Berkshire Telephone Corp., et al. v. Sprint Communications Company L.P.*, Complaint (W.D.N.Y. filed Sept. 26, 2005).

Warner's interconnection request implicated the exemption. The RLECs filed motions to dismiss the arbitration and termination petitions arguing that Time Warner was not a telecommunications carrier and thus did not have a right to request interconnection, file for arbitration, or petition to have the rural exemption terminated. In July 2006, the REA issued an order granting the motions to dismiss. The REA found that Time Warner was not a telecommunications carrier and did not have rights to seek interconnection under Section 251 or pursue arbitration under Section 252.^{13/} Given that ruling, the REA determined it was not required to reach the issue of termination of the rural exemption. Thus, consumers living in the areas of North Carolina served by these RLECs have been denied the benefits of local competition and access to broadband services despite the mandates of the Act.

Texas

In September 2005, Sprint filed petitions for arbitration against several Consolidated Communications entities. In light of the decision issued by the Texas Public Utilities Commission ("PUC") in the *Brazos* proceeding finding that Brazos' rural exemption must be terminated prior to the filing of an arbitration petition^{14/} and the federal court's ruling upholding that decision,^{15/} in March 2006, Sprint filed a petition seeking to terminate Consolidated Communications' rural exemption. In reply, Consolidated argued that Sprint had no standing to request termination of the exemption because Sprint did not serve end user, retail customers and because the FCC had preempted the Texas PUC's jurisdiction over VoIP traffic. The Texas PUC granted Sprint's request, and ordered Consolidated to enter into arbitration with Sprint to reach an interconnection agreement.^{16/} Sprint then filed an amended petition for arbitration on September 11, 2006, and the arbitration is pending before the Texas PUC. Presumably, the consumers located in the service territory covered by these RLECs continue to be denied the benefits of local competition and access to broadband services as intended by the Act.

^{13/} Docket Nos. TMC-1, Sub 1, TMC-3, Sub 1, TMC-5, Sub 1, *Petition of Time Warner Cable Information Services (North Carolina), LLC for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, to Establish Interconnection Agreements with Atlantic, Randolph, and Star Telephone Membership Corporations, et al.*, Order Consolidating and Dismissing Proceedings (N.C.R.E.A. July 19, 2006).

^{14/} PUC Docket No. 31038, *Petition of Sprint Communications Company L.P. for Compulsory Arbitration under the FTA to Establish Terms and Conditions for Interconnection Terms with Brazos Telecommunications Inc.*, Order No. 1 Granting Motion to Dismiss (Tx. P.U.C. June 14, 2005); Order Denying Sprint's Appeal of Order No. 1 (Tx. P.U.C. Dec. 2, 2005).

^{15/} Case No. A-05-CA-065-SS, *Sprint Communications Company L.P. vs. The Public Utility Commission of Texas, et al.*, Order (W.D. Tx. Aug. 14, 2006), *appeal filed*, Notice of Appeal (W.D. Tx. filed Sept. 11, 2006).

^{16/} PUC Docket No. 32582, *Petition of Sprint Communications Company L.P. to Terminate Rural Exemption as to Consolidated Communications of Fort Bend Company and Consolidated Communications of Texas Company*, Order (Tx. P.U.C. Aug. 14, 2006).

Index of Filings
IDT-CenturyTel Complaint Proceeding in Montana
Docket No. D2006.8.121

FILINGS ATTACHED	
1.	IDT Amended Complaint and Petition for Expedited Complaint Proceeding (August 21, 2006)
2.	CenturyTel Response to Amended Complaint and Petition for Expedited Complaint Proceeding (September 18, 2006)
3.	IDT Petition Seeking Interim Order (August 31, 2006)
4.	CenturyTel Response and Opposition to Petition Seeking Interim Order (September 8, 2006)
5.	IDT Reply to CenturyTel Opposition to IDT Petition Seeking an Interim Order (September 12, 2006)
OTHER FILINGS MADE IN DOCKET	
	IDT Complaint and Petition for Expedited Complaint Proceeding on behalf of IDT America, Corp. (August 16, 2006)
	Montana Consumer Counsel Petition for Intervention (September 5, 2006)
	Montana Consumer Counsel Comments in Support of IDT Petition for Interim Relief (September 8, 2006)
	CenturyTel Response to the Montana Consumer Counsel on the Issue of IDT Petition Seeking Interim Order (September 12, 2006)
	CenturyTel Statement of Facts (September 18, 2006)
	IDT Statement of Facts (September 18, 2006)
	CenturyTel Errata Correction to CenturyTel Response to Amended Complaint (September 19, 2006)
	IDT Reply to CenturyTel Response to Amended Complaint and Petition for Expedited Complaint Proceeding (September 21, 2006)
	CenturyTel Motion to Dismiss Petition for Expedited Complaint Proceeding (September 21, 2006)
	IDT Data Requests to CenturyTel (September 25, 2006)
	Montana Consumer Counsel Data Requests to CenturyTel (September 25, 2006)
	CenturyTel Data Requests to IDT (September 25, 2006)
	Staff Data Requests to IDT and CenturyTel (September 25, 2006)

Attachment 1



August 21, 2006

Kate Whitney
Public Service Commission
1701 Prospect Avenue
P. O. Box 202601
Helena, MT 59620-2601

Re: Amended Complaint And Petition For Expedited Complaint Proceeding
on behalf of IDT America, Corp.

Dear Ms. Whitney:

Please find enclosed for filing with the Commission the Amended Complaint and Petition for Expedited Complaint Proceeding of IDT America, Corp. against CenturyTel of Montana, Inc.

This Amended Complaint and Petition is being mailed to the parties identified on the Certificate of Service enclosed. If you have any questions, please contact me at (406) 252-2166.

Very truly yours,

Donald W. Quander
of Holland & Hart^{LLP}

DWQ:asf
Enclosures
cc: Service List

3595221_1.DOC

**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA**

IN THE MATTER OF CENTURYTEL OF	)	UTILITY DIVISION
MONTANA, INC., Complaint by IDT America,)	
Corp. Pertaining to CenturyTel's Violation of)	
State and Federal Regulations and Breach of	)	Docket No. _____
Interconnection Agreement)	

CERTIFICATE OF SERVICE

I hereby certify that I have caused copies of the Amended Complaint And
Petition For Expedited Complaint Proceeding on behalf of IDT America, Corp. to be
served by first class mail, postage prepaid, on this date to the parties as shown below:

VIA OVERNIGHT MAIL

Kate Whitney (original plus 10)
Public Service Commission
1701 Prospect Avenue
P. O. Box 202601
Helena, MT 59620-2601

VIA OVERNIGHT MAIL

CenturyTel, Inc.
Attn: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203

VIA OVERNIGHT MAIL

Carrier Relations
CenturyTel
805 Broadway
Vancouver, WA 98660

VIA OVERNIGHT MAIL

Cherie R. Kiser
Elana Shapochnikov
Mintz Levin Cohn Ferris Glovsky and Popeo
P.C.
Chrysler Center
666 Third Avenue
New York, NY 10017

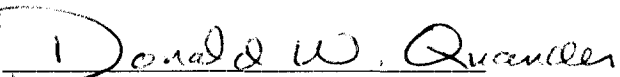
Kenneth M. Kaplan
IDT Corporation
520 Broad Street
Newark, New Jersey 07102

Donald W. Quander
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401 North 31st Street
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P. O. Box 639
Billings, MT 59103-0639

Thor A. Nelson
Holland & Hart LLP
8390 E. Crescent Parkway
Suite 400
Greenwood Village, CO 80111

Respectfully submitted this 21st day of August, 2006.

IDT America, Corp.

By: 

Donald W. Quander
Holland & Hart LLP
401 North 31st Street
Suite 1500
P. O. Box 639
Billings, Montana 59103-0639
(406) 252-2166

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF CENTURYTEL OF	)	UTILITY DIVISION
MONTANA, INC., Complaint by IDT America,)	
Corp. Pertaining to CenturyTel's Violation of	)	Docket No. _____
State and Federal Regulations and Breach of)	
Interconnection Agreement)	

AMENDED COMPLAINT AND PETITION FOR EXPEDITED COMPLAINT PROCEEDING

1. IDT America, Corp. ("IDT") files this Amended Complaint^{1/} and Petition for Expedited Complaint Proceeding with the Public Service Commission of the state of Montana ("Commission") against CenturyTel of Montana, Inc. ("CenturyTel") based on CenturyTel's continuing and willful violations of state and federal laws pertaining to local number portability ("LNP") and breach of its Interconnection Agreement dated March 31, 2006 ("Agreement") with IDT in Montana. This Complaint and Petition for Expedited Complaint Proceeding is being filed pursuant to Mont. Code Ann. § 69-3-830. Attached as Exhibit A is IDT's Expedited Complaint Statement setting forth the issues presented for the Commission's review.

PARTIES

2. IDT is a registered telecommunications provider in Montana authorized to provide facilities-based and resale local exchange services, resale long distance service, and commercial mobile radio service in Montana.

^{1/} Mont. Admin. Register § 38-5-4074.

3. CenturyTel is a registered telecommunications provider in Montana and a “rural telephone company,” as that term is defined in the Telecommunications Act of 1996 (“Act”).^{2/} CenturyTel provides facilities-based local exchange services in the Flathead Valley of Montana, including Kalispell, Montana.

BACKGROUND OF COMPLAINT

4. CenturyTel and IDT entered into the Agreement on March 31, 2006 (Exhibit B). The Commission approved the Agreement by order dated July 11, 2006 (“*Commission Order*”) (Exhibit C). On or about July 11th and 12th, IDT submitted several requests to port the local telephone numbers of consumers that have elected to switch from CenturyTel to Bresnan Digital Services, LLC’s (“Bresnan”) VoIP offering. IDT serves as Bresnan’s LEC for purposes of, among other things, porting numbers and providing access to the public switch telephone network (“PSTN”). These services are similar to those purchased by other end user business customers such as AOL. All of IDT’s LNP requests related to the services provided by IDT to Bresnan are being rejected by CenturyTel. After several unsuccessful attempts by IDT to resolve the matter, on July 17, 2006, IDT received a letter from CenturyTel stating that CenturyTel would not honor IDT’s LNP requests because CenturyTel had “reason to believe” that the LNP requests “were not related to IDT’s end users” (“CenturyTel Letter”) (Exhibit D).

5. By letter dated July 19, 2006 (“IDT Notice”) (Exhibit E), IDT informed CenturyTel of its legal obligation to port the requested numbers and provided notice that if CenturyTel continued to refuse to port numbers, IDT would pursue all legal remedies available to it. Those remedies include the filing of this Complaint and Petition for Expedited Complaint

^{2/} 47 U.S.C. § 153.

Proceeding. On July 20, 2006, in a final attempt to resolve this matter without involving the Commission, IDT called CenturyTel's counsel to discuss the issue and reiterate that IDT would initiate regulatory proceedings if CenturyTel continued to violate its duty to port. To date, CenturyTel has refused to execute the requested ports for its Montana customers. As a result of CenturyTel's refusal to honor IDT's LNP requests, CenturyTel's customers are not able to port numbers from CenturyTel to the provider of their choice. CenturyTel is in violation of its statutory duty to port numbers and has breached its Agreement with IDT to provide local number portability in response to a porting request.

6. Although IDT has, in good faith provided CenturyTel with ample opportunity to cure its continued and willful violation of applicable laws and breach of its interconnection agreement, CenturyTel has failed to do so. As a result, by letter dated August 11, 2006, IDT provided a second notice ("IDT Second Notice") to CenturyTel stating that IDT is, in fact, pursuing a petition to initiate an expedited complaint proceeding against CenturyTel with the Public Service Commission of the State of Montana in accordance with Mont. Code Ann. § 69-3-830 (Exhibit F).

COMMISSION'S JURISDICTION OVER COMPLAINT

7. The Commission has jurisdiction over interconnection and exchange access disputes pursuant to Mont. Code Ann. §§ 69-3-831 *et seq.* In addition, the Commission has authority to supervise, regulate and control public utilities.^{3/} CenturyTel is a public utility offering regulated telecommunications services in the State of Montana.^{4/} The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by

^{3/} Mont. Code Ann. § 69-3-102.

^{4/} Mont. Code Ann. § 69-3-101.

the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it.^{5/}

ARGUMENT

I. CENTURYTEL IS DENYING CONSUMERS THEIR RIGHT TO PORT THEIR LOCAL TELEPHONE NUMBERS IN VIOLATION OF STATE AND FEDERAL LAW.

A. CenturyTel's Refusal to Port is Contrary to State and Federal Policies Promoting Competition and Advancement of New Technologies.

8. The Telecommunications Act of 1996 ("Act") provides "for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition."^{6/} In particular, § 251(b) of the Act imposes specific obligations on all local exchange carriers ("LECs") to open their networks to competitors.^{7/} A critical component of that goal is the ability of *consumers* to keep their telephone numbers when switching to a new service provider.^{8/} Congress determined that "the ability to change service providers is only meaningful if a customer can retain his or her local telephone number."^{9/}

9. Section 251(b)(2) of the Act thus requires that all local exchange carriers provide number portability, to the extent technically feasible, in accordance with the requirements

^{5/} Mont. Code Ann. § 69-3-103.

^{6/} S. CONF. REP. NO. 104-230, at 1 (1996).

^{7/} 47 U.S.C. § 251(b).

^{8/} *In re Telephone Number Portability*, First Report and Order & Further Notice of Proposed Rulemaking, 11 FCC Rcd. 8352 ¶ 2 (1996) ("First Report and Order") ("Number portability is one of the obligations that Congress imposed on all local exchange carriers, both incumbents and new entrants, in order to promote the pro-competitive, deregulatory markets it envisioned. Congress has recognized that number portability will lower barriers to entry and promote competition in the local exchange marketplace").

^{9/} *Id.* (citing House of Rep. Comm. on Commerce Report on H.R. 1555 at 72 (July 24, 1995) ("House Report")).

prescribed by the Federal Communications Commission (“FCC”). LNP is defined as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”^{10/} As the FCC stated:

“The ability of end users to retain their telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of telecommunications services they can choose to purchase. Number portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers. The resulting competition will benefit all users of telecommunications services. Indeed, competition should foster lower local telephone prices and, consequently, stimulate demand for telecommunications services and increase economic growth.”^{11/}

Pursuant to FCC rules, “any wireline carrier that is certified (or has applied for certification) to provide local exchange service in any state ... *must* be permitted to make a request for deployment of number portability.”^{12/} (Emphasis added).

10. The Montana Telecommunications Act (“Montana Act”)^{13/} shares Congress’ pro-competitive policy. In an effort to promote competition and advance new technologies pursuant to the Montana Act, the Commission requires that “[a]ll facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code.”^{14/} Adopting the 1996 Act’s definition of number portability, the Montana

^{10/} 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k). Notably, the definition of LNP contained in Appendix C § 1.58 of the Agreement is identical to the definitions of LNP in the Act and FCC rules.

^{11/} *First Report and Order* ¶ 31 (citing evidence that business and residential customers are reluctant to switch carriers if they must change telephone numbers, and stating that “[t]o the extent that customers are reluctant to change service providers due to the absence of number portability, demand for services provided by new entrants will be depressed. This could well discourage entry by new service providers and thereby frustrate the pro-competitive goals of the 1996 Act.”).

^{12/} 47 C.F.R. § 52.23(b)(2)(i).

^{13/} Montana Telecommunications Act, Mont. Code Ann. §§ 69-3-801 to 870 (2005).

^{14/} Mont. Admin. Register § 38-5-4074.

Administrative Code defines “number portability” as “the ability of users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.”^{15/} Under this definition, when CenturyTel receives a port request from IDT, CenturyTel must port the number expeditiously “without impairment of quality, reliability, or convenience.” The FCC has interpreted this language to mean that consumers must be able to change carriers while keeping their telephone number as easily as they may change carriers without taking their telephone number with them.^{16/} Carriers may not impose non-porting related restrictions on the porting out process.^{17/}

11. Thus, when one of CenturyTel’s customers chooses to switch his telephone service from CenturyTel to IDT and wants to keep his telephone number, CenturyTel is required to port the number so long as IDT has a presence in the rate center. CenturyTel’s refusal to implement IDT’s port request is a direct violation of state and federal local number portability regulations designed to protect consumers and in contravention of state and federal pro-competitive policies. The Commission should direct CenturyTel to comply with its duty to consumers and initiate the requested ports immediately.

^{15/} Mont. Admin. Register § 38-5-4002(16).

^{16/} *In the Matter of Telephone Number Portability -Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, 18 FCC Rcd. 20971 ¶ 11(rel. Oct. 7, 2003) (“2003 Wirelees-Wireless Porting Order”).

^{17/} *Id.*

B. CenturyTel's Refusal to Port Is Improper Re-verification.

12. CenturyTel is engaging in improper re-verification by questioning the identity of IDT's customers. Under the both the Commission's and the FCC's rules, the role of the executing carrier is clearly defined:

"An executing carrier [here CenturyTel] shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier [IDT]. For an executing carrier, compliance with the procedures described in this part shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier."^{18/}

The FCC has confirmed that executing carriers cannot delay provider change requests even if the customer's name on the port request does not match the name in the executing LEC's database.^{19/}

The FCC has found that "executing carriers...have both the incentive and ability to delay or deny carrier changes."^{20/} The FCC expressed concern that executing carriers could use the verification process as a means of delaying or denying carrier change requests in order to benefit themselves or their affiliates.^{21/} While the FCC agreed that allowing executing carriers to re-verify carrier change requests could help to deter slamming, it ultimately concluded that the anti-competitive

^{18/} 47 C.F.R. § 64.1120(a)(2). The Montana Administrative Code mirrors the FCC's regulations with regard to prohibiting re-verification of provider change orders. *See*, Mont. Admin. Register § 38-5-3801(3) ("An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures prescribed in this rule shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier").

^{19/} *In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, LEC Coalition Request for Declaratory Ruling Regarding Carrier Change Verification*, CC Docket No. 94-129, DA 05-1618 (2005); *see also*, *Public Notice Consumer & Governmental Affairs Bureau Seeks Comment on an Application for Review Filed by the Rural Local Exchange Carriers*, CC Docket 94-129, DA 05-3131 (2005).

^{20/} 47 C.F.R. § 64.1100(a); *see also* *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd. 1508 ¶¶ 92,99 (1998) ("Second Report and Order").

^{21/} *Id.* ¶ 99.

effects of re-verification outweighed the potential benefits.^{22/} In direct defiance of the Commission's and the FCC's rules, CenturyTel is denying Montana consumers the ability to exercise the right to port their numbers to the provider of their choice by engaging in the precise anti-competitive behavior the Commission's and the FCC's rules were designed to prevent.

13. In prohibiting carrier re-verification of port requests, the FCC was also concerned that re-verification by executing carriers could function as a *de facto* preferred carrier "freeze," in situations where a subscriber has not requested such a freeze.^{23/} The FCC concluded that actions, such as CenturyTel's actions here, create a *de facto* freeze and are anti-competitive because they "serve to restrict consumer control by eliminating the consumer's ability to designate someone as authorized to change telecommunications service without first contacting the local carrier."^{24/} CenturyTel's actions also violate the consumer protections under Montana statutes that "[n]o local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed" in accordance with applicable procedures.^{25/}

14. Accordingly, when CenturyTel receives IDT's LNP request in the form of a local service request ("LSR"), it may verify the customer's account information to ensure the name, address, telephone number, etc. are correct. It may also confirm that the number is eligible for

^{22/} *Id.*

^{23/} *Id.* ¶ 100. A preferred carrier freeze prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express written or oral consent. *See also*, 47 C.F.R. § 64.1190 (d) (2) ("No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with [FCC] procedures...").

^{24/} *See, In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, LEC Coalition Request for Declaratory Ruling Regarding Carrier Change Verification*, CC Docket No. 94-129, DA 05-1618 (Rel. June 9, 2005); *see also, Public Notice Consumer & Governmental Affairs Bureau Seeks Comment on an Application for Review Filed by the Rural Local Exchange Carriers (LECs)*, CC Docket 94-129, DA 05-3131 (rel. December 2, 2005).

^{25/} Mont. Admin. Register § 38-5-3817(2).

porting and that IDT has facilities or numbering resources in the rate center. Beyond that, CenturyTel's only duty is to port the number to IDT as expeditiously as possible. With every passing day that CenturyTel refuses to execute IDT's port requests, more and more Montana consumers are denied the benefits of competition.

C. CenturyTel is in Violation of its Duty to Route Calls to Ported Numbers.

15. CenturyTel is fully aware of its obligation to port numbers upon request. CenturyTel has been fined in the past for failing to comply with its LNP obligations.^{26/} Briefly, the FCC issued a notice of apparent liability ("*CenturyTel NAL*") against CenturyTel in May 2004 because, instead of querying the LNP database to determine where to route calls, CenturyTel simply "default" routed calls to the original carrier. As a result, the CenturyTel customer would get a message that the called number was not in service. The FCC emphasized that "[r]egardless of a carrier's obligation to provide number portability, all carriers have a duty to *route* calls to ported numbers."^{27/}

16. While the *CenturyTel NAL* arose in the context of wireline-wireless porting, the facts are similar to the situation with which IDT is faced. When a subscriber chooses to port his number to IDT, CenturyTel must route to IDT calls placed by CenturyTel customers to that number. The identity of IDT's end users is irrelevant. As the FCC stated, it is essential that customers not experience "any degradation in service quality or network reliability when

^{26/} CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of InterIsland, Inc., Apparent Liability for Forfeiture, DA -4-1303, 19 FCC Rcd 8543 (rel. May 13, 2004) ("*CenturyTel NAL*").

^{27/} *Id.* ¶ 4.

customers switch carriers.”^{28/} When an IDT customer cannot get his number ported or cannot receive calls originated by CenturyTel customers, the customer is experiencing exactly that sort of degradation.

II. CENTURYTEL IS IN BREACH OF ITS INTERCONNECTION AGREEMENT.

17. IDT is a wireline carrier certified to provide local exchange service in Montana. CenturyTel and IDT entered into an interconnection agreement that expressly incorporates the statutory duty to port numbers and the state and federal rules implementing that duty. Article IV, § 8.1 of the Agreement provides:

“LNP *shall* be provided in response to a porting request from either Party, consistent with applicable time periods and procedures established by the Act and applicable FCC regulations. The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable.”^{29/} (Emphasis added).

Article III, § 13 of the Agreement further provides:

“Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.”^{30/}

18. According to CenturyTel, the Agreement is intended to only cover arrangements concerning IDT’s provision of local service to end user customers. CenturyTel cites two provisions in the Agreement that it claims limits the Agreement’s arrangements, including number portability to IDT’s end users. First, it contends that IDT entered into the Agreement “in its capacity as a certified Provider of local two-way wireline dial-tone service,” citing the

^{28/} *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 ¶ 48 (1996). *See also*, 47 C.F.R. § 52.23(a)(5).

^{29/} Agreement, Article IV § 8.1.1.

^{30/} *Id.* Article III § 13.

opening paragraph of the Agreement. Second, it cites the first paragraph under Article I, Scope and Intent of Agreement, which provides that “the Parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of connection and the exchange of Local Traffic between their respective end-user customers.”

19. CenturyTel’s claim that it has no obligation to port numbers that it “believes” may not be related to IDT’s end users is without merit. CenturyTel’s statutory obligation to port numbers upon request from a telecommunications carrier, such as IDT, contains no such limitation. As stated above, the parties’ number porting obligations are independent of the Agreement.^{31/} The parties’ Agreement in no way contravenes or undermines CenturyTel’s duty to port numbers under the law and specifically states that the parties will port numbers consistent with law.^{32/} The Agreement does not provide CenturyTel any special relief from the law, nor can it. As the FCC has stated, providers cannot vitiate their porting obligations by including non-porting-related limitations in their agreements.^{33/} Indeed, in the wireless context, “no carrier may unilaterally refuse to port with another carrier because that carrier will not enter into an interconnection agreement.”^{34/}

20. CenturyTel’s sole reason for refusing to implement IDT’s port requests is based on a mistaken “belief that the porting requests submitted by IDT are not related to IDT end users.” CenturyTel has no right to refuse to port numbers based on the identity of IDT’s end

^{31/} *Id.* Article III § 23 (“ This Agreement shall be governed by and construed in accordance with applicable federal and (to the extent not inconsistent therewith) domestic laws of the state where the services are provided or the facilities reside”).

^{32/} Agreement, Article IV § 8.1.1 (“The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable”).

^{33/} 2003 *Wireless-Wireless Porting Order* ¶ 11.

^{34/} *First Report and Order* ¶ 21.

users. CenturyTel's refusal to port its customers' numbers is a violation of the law and is a breach of the Agreement.

21. CenturyTel fails to understand the legal definition of "end users." IDT's provision of telecommunications service to its customers is the provision of service to an end user. The FCC has explicitly stated that the provision of wholesale telecommunications services is considered the provision of telecommunications services to an end user by a telecommunications carrier.^{35/} When an entity such as Bresnan purchases services from telecommunications carriers such as IDT to support Bresnan's interconnected VoIP services, Bresnan is a business end user.

22. It is IDT's status as a "telecommunications carrier" and its provision of local exchange services that determines its entitlement to LNP processing under the Act, not the businesses of its end users.^{36/} As recognized by the FCC, wholesale entities such as interconnected VoIP service providers must purchase telecommunications services from regulated telecommunications carriers like IDT in order to originate and terminate calls on the public switched network, access 911 services, and obtain numbering resources.^{37/} CenturyTel cannot refuse to fulfill contract or legal obligations to consumers and co-carriers such as IDT because of the type of end user IDT serves. This is discrimination.

^{35/} *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd. 21905 ¶ 263 (1996) ("the definition of telecommunications services is intended to clarify that telecommunications services are common carrier services, which include wholesale services to other carriers").

^{36/} *Federal-State Joint Board on Universal Service*, 12 FCC Rcd. 8776 ¶ 785 (1997) (finding telecommunications services "include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers").

^{37/} *See, e.g., IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd. 10245 ¶ 38 (2005) (noting that VoIP service providers obtain 911 services from competitive local exchange carriers); *IP-Enabled Services*, 19 FCC Rcd. 4863 ¶ 12 (2004) (recognizing that VoIP service providers obtain telecommunications services from telecommunications carriers in order to provide services to the VoIP service provider's customers).

23. Although the Agreement itself does not define “end user,” §1.97 of Appendix C of the agreement provides that undefined terms are to be “construed in accordance with CenturyTel’s tariffs or, if not defined therein, under customary usage in the telecommunication industry.” In pertinent part, CenturyTel’s tariffs define end user as “*any* customer of an interstate or foreign telecommunications service that is not a carrier.”^{38/} (Emphasis added) Bresnan readily fits this definition. Bresnan is not a telecommunications carrier because it offers interconnected VoIP service.^{39/} Bresnan is an end user customer of IDT’s telecommunications services

24. CenturyTel’s interpretation of the Agreement to apply only to the direct, retail provision of services is not only legally unsound, it is profoundly anti-competitive. Interconnection agreements are the primary mechanism established by Congress to open local telephone markets to competition. CenturyTel, however, seeks to use the Agreement to stave off competition. Cable-based interconnected VoIP service, such as that offered by Bresnan, provides one of the few competitive alternatives available to residential customers in rural

^{38/} See e.g., CenturyTel FCC Tariff No. 1, § 2 pg. 68. See also, CenturyTel Tariff PSC Mont. AC-5 § 2-49 (The term “End User” means any customer of an intrastate telecommunications service that is not a carrier, except that a carrier other than a telephone company shall be deemed to be an “end user” when such carrier uses a telecommunications service for administrative purposes, and a person or entity that offers telecommunications service exclusively as a reseller shall be deemed to be an “end user” if all resale transmissions offered by such reseller originate on the premises of such reseller”).

^{39/} Report and Order and Notice of Proposed Rulemaking, FCC 06-94, 38 CR 1013, *Universal Service Contribution Methodology, Report and Order* (“USF Contribution Order”) and *Notice of Proposed Rulemaking* ¶ 35 (rel. June 27, 2006) (“The Commission has not yet classified interconnected VoIP services as ‘telecommunications services’ or ‘information services’ under the definitions of the Act”). It is well-established law that a single provider may offer both regulated and unregulated services and function as both a regulated and non-regulated entity. See *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, Report and Order and NPRM, 20 FCC Rcd. 14853 ¶ 73, n.221 (rel. Sept. 23, 2005) (“Wireline Broadband Order”) (citing *NARUC v. FCC* 533 F.2d 601, 698 (D.C. Cir. 1976) (“NARUC I”) (“[I]t is at least logical to conclude that one can be a common carrier with regard to some activities but not others.”)). See also, *Southwestern Bell Telephone Company v. FCC*, 19 F.3d 1475, 1481 (D.C. Cir. 1994). As the FCC has recognized, absent any legal compulsion to operate as a common carrier, it is ultimately up to the service provider to determine whether it will function as a common carrier or private carrier. See, *Wireline Broadband Order* ¶ 89 (confirming that broadband providers have the flexibility to offer transmission services as common carriers or private carriers).

markets.^{40/} Thus, competition will have to come from those that have deployed alternative last mile facilities, such as cable companies. The only practical method by which these competitive services can be made available to consumers is through arrangements like that between IDT and Bresnan.^{41/}

25. Numerous state commissions, including New York, Illinois, Iowa, and Ohio, have found that the services provided to a wholesale service provider are well within the scope of what telecommunications carriers commonly do and are “no different than [the services] performed by other competitive local exchange carriers.”^{42/} As a result, these state commissions determined that telecommunications carriers offering services to wholesale service providers were entitled to interconnection and other rights under § 251 and § 252 of the Act because those telecommunications carriers were “acting in a role no different than other telecommunications carriers whose network could interconnect with [ILECs] so that traffic is terminated to and from

^{40/} *Illinois Order* at 13 (noting that benefits of competition have been slow to reach rural areas and that arrangements like those at issue here “potentially allows those in rural areas to benefit from the competitive telecommunications market”).

^{41/} *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and NPRM 20 FCC Rcd. 10245 ¶ 40 (2005) (“*E911 VoIP Order*”) (recognizing that interconnected VoIP providers’ compliance with E911 obligations “is necessarily dependent on the ability of the interconnected VoIP providers to have access to the trunks and selective routers via competitive LECs that have negotiated access with incumbent LECs. . .”).

^{42/} Case 05-C-0170, *Petition of Sprint Communications Company L. P., Pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration to Establish an Intercarrier Agreement with Independent Companies*, Order Resolving Arbitration Issues (N.Y.P.S.C. May 24, 2005) (“*New York Order*”), on appeal *Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ. Action No. 05-CV-6502 (CJS) (MWP) (W.D.N.Y. filed Sept. 26, 2005); Case Nos. 050259, *et al.*, *Cambridge Telephone Company, et al. Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties under §§ 251(b) and (c) of the Federal Telecommunications Act* (I.C.C. July 13, 2005) (“*Illinois Order*”); Docket No. ARB-05-02, *Arbitration of Sprint Communications Co. v. Ace Communications Group, et al.*, Order on Rehearing (I.U.B. Nov. 28, 2005) (“*Iowa Order*”); Case Nos. 04-1494-TP-UNC, *et al.*, *Application and Petition in Accordance with Section II.A.2.b of the Local Service Guidelines Filed by: The Champaign Telephone Co., Telephone Services Co., the Germantown Independent Telephone Co., and Doylestown Telephone Co.*, Finding and Order (P.U.C.O. Jan. 26, 2005) (“*Ohio Order*”), *reh’g denied in pertinent part*, Order on Rehearing (P.U.C.O. Apr. 13, 2005).

each network and across networks.”^{43/} These rights include the immediate porting of numbers upon request.

26. If CenturyTel believes that it should be exempt from such competition, the Act provides a clear mechanism to achieve that result. Section 251(f)(2) of the Act contemplates that a carrier such as CenturyTel may be excused from market opening requirements such as number portability, by petitioning the Commission for a suspension or modification of its § 251(b) obligations.^{44/} CenturyTel has made no such petition. On the contrary, CenturyTel processes the porting requests of other carriers. CenturyTel has indicated that it ports numbers pursuant to its Montana Interconnection Agreements with Verizon Wireless, AirTel Wireless, LLC, and Granite Telecommunications, LLC. CenturyTel appears to believe that customers seeking to port to Bresnan/IDT have less rights than customers porting to other carriers. CenturyTel’s actions reflect the very type of discrimination and anti-competitive conduct that the Act and the Montana Commission have sought to prevent.^{45/} The Commission should intervene to eliminate the harm to Montana consumers caused by CenturyTel’s blatant anti-competitive and discriminatory conduct by directing CenturyTel to process all number porting requests submitted by IDT immediately.

^{43/} *Ohio Order* at 4-5, ¶ 7.

^{44/} 47 U.S.C. § 251(f) (2) (providing that a local exchange carrier with less than two percent of the Nation’s subscriber lines may “petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c)”).

^{45/} 47 U.S.C. § 202 (a) (“It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage”). *See also*, Mont. Code Ann. § 69-3-321 (the Commission is required to proceed against any public utility upon a complaint that “any regulations, measurements, practices, or acts whatsoever affecting or relating to the production, transmission, delivery, or furnishing of heat, light, water, power, or regulated telecommunications service, or any service in connection therewith is in any respect unreasonable, insufficient, or unjustly discriminatory” or “any service is inadequate”).

27. CenturyTel's refusal to port local numbers is a violation of the law. CenturyTel's interpretation of the Agreement is not correct and could not be correct because the Commission has held that "[a]ny provision or term of [an] Agreement that is in conflict with the law, whether or not specifically addressed by the Commission, is rejected as a matter of law and not in the public interest." Thus, CenturyTel's interpretation of the Agreement as limiting its responsibility to comply with local number portability is necessarily void under state law and the Commission's Order approving the Agreement.^{46/}

IDT'S REQUEST FOR EXPEDITED COMPLAINT PROCEEDING

28. Pursuant to Mont. Code Ann. §§ 69-3-829 and 830, IDT respectfully requests that the Commission apply its expedited complaint procedure to this case.

29. IDT has attempted in good faith to resolve its disagreement with CenturyTel prior to filing this Complaint and Petition for Expedited Complaint Proceeding. Mont. Code Ann. § 69-3-830(1)(a)(i).

30. This Complaint includes a description of the facts, including relevant documentation, of the issues in dispute and the position of IDT and CenturyTel with respect to those issues. Mont. Code Ann. § 69-3-830(1)(a)(ii).

31. IDT informed CenturyTel of its intent to file a petition for expedited complaint proceeding on July 19, 2006 and August 11, 2006, which is more than 10 days before IDT filed this Complaint with the Commission. Mont. Code Ann. § 69-3-830(1)(a)(iii).

^{46/} See, *Commission Order* ¶ 13. See also, Mont. Code Ann. §§ 28-2-604, 28-2-701, 28-2-702.

29. As noted on the attached Certificate of Service, IDT has provided a copy of this Complaint and Petition to CenturyTel by e-mail and overnight mail on the date the Commission received this Complaint and Petition pursuant to Mont. Code Ann. § 69-3-830(1)(b).

REQUEST FOR RELIEF

32. WHEREFORE, IDT files this Complaint and Petition for Expedited Complaint Proceeding.

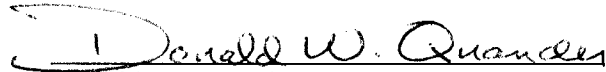
33. IDT respectfully requests the Commission enforce the state and federal laws applicable to CenturyTel and require it to honor immediately all requests by Montana consumers to have their numbers ported consistent with the rules of the Commission and the FCC.

34. Pursuant to Mont. Code Ann. §§ 69-3-829 and 830, to the extent deemed necessary, IDT respectfully requests that the Commission appoint a hearing examiner and establish a schedule setting dates for: 1) a conference between and among the Parties and the examiner to establish discovery deadlines and a hearing date, and 2) the examiner's proposed decision on this Complaint.

35. IDT respectfully requests that the Commission, after an expedited hearing on this Complaint, issue an Order prohibiting CenturyTel from refusing to comply with state and federal laws requiring it to honor IDT's number portability requests in the future and grant to IDT any and all other relief to which it may be entitled including, but not limited to, monetary damages pursuant to Mont. Code Ann. §§ 69-3-830 (11).

DATED this 21st day of August, 2006.

IDT America, Corp.

A handwritten signature in black ink that reads "Donald W. Quander". The signature is written in a cursive style with a large, stylized "D" at the beginning.

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Exhibit A

Expedited Complaint Statement

The following is a statement of the issues raised in the IDT Complaint. This statement is in addition to any and all points and matters raised in the body of the Complaint.

I. CenturyTel's Position:

- CenturyTel would not honor IDT's LNP requests because, according to the CenturyTel Letter, CenturyTel had "reason to believe" that the LNP requests "were not related to IDT's end users" pursuant to the Agreement.

II. IDT's Positions:

Violation of Federal Law:

- CenturyTel's refusal to port is in violation of § 251(b) of the federal Act. Section 251(b)(2) of the Act requires that all local exchange carriers provide number portability, to the extent technically feasible, in accordance with the requirements prescribed by the FCC.
- CenturyTel's refusal to port is in violation of FCC rules § 52.21(k)(1) and § 52.23 related to implementation of local number portability. CenturyTel is also in violation of its duty to route traffic to ported numbers without any degradation in service quality or network reliability when customers switch carriers.
- CenturyTel is in violation of FCC Orders and policies regarding implementation of local number portability as set forth in the body of the Complaint.
- CenturyTel is discriminating between similarly situated customers in violation of § 202 (a) of the Act. CenturyTel customers seeking to transition their service to Bresnan/IDT are provided fewer rights than those customers seeking to transfer their service and telephone number to other providers in CenturyTel's service areas.
- CenturyTel is engaging in improper re-verification by questioning the identity of IDT's customers in violation of FCC policies and § 64.1120(a)(2) of the FCC's rules by conditioning execution of IDT's port request on the identity of IDT's end user.
- CenturyTel's refusal to port local numbers is a violation of FCC policies and § 64.1190(d)(2) rules preventing improper carrier freezes, *de facto* or otherwise, absent customer consent.

Violation of State Law:

- CenturyTel's refusal to port is in violation of the Mont. Admin. Register § 38-5-4074 requiring that "[a]ll facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code."

- CenturyTel's refusal to port is in violation of Mont. Admin. Register § 38-5-4002(16) because it is impairing its customers' quality, reliability, and convenience when changing service providers while retaining the same number.
- CenturyTel is discriminating between similarly situated customers in violation of Mont. Code Ann. § 69-3-321(b). CenturyTel customers seeking to transition their service to Bresnan/IDT are provided fewer rights than those customers seeking to transfer their service and telephone number to other providers in CenturyTel's service areas.
- CenturyTel is engaging in improper re-verification by questioning the identity of IDT's customers in violation of Commission policies and Mont. Admin. Register § 38-5-3801(3).
- CenturyTel's refusal to port local numbers is a violation of Commission policies and Mont. Admin. Register § 38-5-3817(2) preventing improper carrier freezes, *de facto* or otherwise, absent customer consent.

CenturyTel is in Breach of its Interconnection Agreement with IDT

CenturyTel is in breach of the following provisions in the Agreement:

- Article III, § 13.
- Article III, § 23.
- Article IV, § 8.1.

CenturyTel is in Violation of the Commission's Order Approving the Interconnection Agreement:

- CenturyTel's conduct violates the law. According to the Commission's Order, any provisions in the Agreement that sanction such conduct are void pursuant to Mont. Code Ann. §§ 28-2-604, 28-2-701, 28-2-702.
- CenturyTel's refusal to port local numbers is a violation of the law. CenturyTel's interpretation of the Agreement is not correct and cannot be correct because as the Commission has held "[a]ny provision or term of this Agreement that is in conflict with the law, whether or not specifically addressed by the Commission, is rejected as a matter of law and not in the public interest." Thus, CenturyTel's interpretation of the Agreement as limiting its responsibility to comply with local number portability is necessarily void under state law and the Commission's Order approving the Agreement.

Exhibit B

TRAFFIC EXCHANGE AGREEMENT

BETWEEN

CENTURYTEL OF MONTANA, INC.

AND

IDT AMERICA, CORP.

IN THE STATE OF MONTANA

This Traffic Exchange Agreement (the "Agreement") is by and between CenturyTel of Montana, Inc. with the address for purposes of this Agreement at 100 CenturyTel Drive, Monroe, Louisiana 71203 (collectively "CenturyTel"), and IDT America, Corp. ("IDT"), in its capacity as a certified Provider of local two-way wireline dial-tone service, with its address for this Agreement at 520 Broad Street, Newark, New Jersey 07102 (CenturyTel and IDT being referred to collectively as the "Parties" and individually as a "Party"). This Agreement covers services in the State of Montana only (the "State").

WHEREAS, connection between Local Exchange Carriers (LECs) is necessary and desirable for the mutual exchange and termination of traffic originating on each LEC's network; and

WHEREAS, the Parties desire to exchange such traffic and related signaling in a technically and economically efficient manner at defined and mutually agreed upon connection points; and

WHEREAS, the Parties wish to enter into an agreement to interconnect their respective telecommunications networks on terms that are fair and equitable to both Parties; and

WHEREAS, Section 251 of the Telecommunications Act of 1996 (the "Act") imposes specific obligations on LECs with respect to the interconnection of their networks;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CenturyTel and IDT hereby covenant and agree as follows:

ARTICLE I SCOPE AND INTENT OF AGREEMENT

Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of connection and the exchange of Local Traffic between their respective end-user customers. This Agreement is an integrated package that reflects a balancing of interests critical to the Parties. The Parties agree that their entrance into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements and/or matters related to CenturyTel's cost recovery covered in this Agreement. IDT agrees to negotiate reciprocal terms and conditions with CenturyTel based on this Agreement.

The services and facilities to be provided to IDT by CenturyTel in satisfaction of this Agreement may be provided pursuant to CenturyTel tariffs and then current practices. Should such services and facilities be modified by tariff or by Order, including any modifications resulting from other Commission proceedings, federal court review or other judicial action, and unless otherwise specified herein, such modifications will be deemed to automatically supersede any rates and terms and conditions of this Agreement. The Parties shall cooperate with one another for the purpose of incorporating required modifications into this Agreement.

CenturyTel represents and warrants that it is a "rural telephone company" as that term is defined in the Act, 47 U.S.C. 153. Pursuant to Section 251 (f)(1) of the Act, CenturyTel is exempt from Section 251 (c) of the Act. Notwithstanding such exemption, CenturyTel has entered into and accepted this Agreement for purposes of exchanging local traffic, as defined in Article IV, Section 3 herein, with CLEC. CenturyTel's execution of the Agreement does not in any way constitute a waiver or limitation of CenturyTel's rights under Section 251 (f)(1) or 251 (f)(2) of the Act. Accordingly, CenturyTel expressly reserves the right to assert its right to an exemption or waiver and modification of Section 251 (c) of the Act, in response to other requests for interconnection by CLEC or any other carrier.

ARTICLE II
DEFINITIONS

1. General Definitions.

Except as otherwise specified herein, in case of any interpretation question, the standard definitions in CenturyTel's Section 251 Interconnection agreement template as set forth in Appendix C attached to this Agreement and made a part hereof shall apply to all Articles and Appendices contained in this Agreement. Additional definitions that are specific to the matters covered in a particular Article may appear in that Article. To the extent that there may be any conflict between a definition set forth in Appendix C and any definition in a specific Article or Appendix, the definition set forth in the specific Article or Appendix shall control with respect to that Article or Appendix.

ARTICLE III GENERAL PROVISIONS

1. Scope of General Provisions.

Except as may otherwise be set forth in a particular Article or Appendix of this Agreement, in which case the provisions of such Article or Appendix shall control, these General Provisions apply to all Articles and Appendices of this Agreement.

2. Term and Termination.

2.1 Term.

Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be for a period of two (2) years from the Effective Date as defined in Section 36 and therefore defined as the "Initial Term". This Agreement shall thereafter automatically renew for successive one (1) year periods (each a "Renewal Term"; the Initial Term and all Renewal Terms are collectively referred to as the "Term"), unless either party provides written notice of cancellation to the other at least ninety (90) days prior to the end of the Initial Term or the Renewal Term, as the case may be.

2.2 Post Termination Arrangements.

Except in the case of termination as a result of either Party's Default under Section 2.3 below, or a termination upon sale, pursuant to Section 2.5, for service arrangements made available under this Agreement and existing at the time of termination, those arrangements may continue:

- (a) As if under this Agreement, if either Party has requested negotiations for a new agreement, (i) until this Agreement has been replaced by a new agreement, or (ii) for up to one hundred eighty (180) calendar days following the date that either Party has given notice, pursuant to Section 2.1, of its desire to terminate this Agreement.
- (b) If this Agreement is not continued pursuant to subsection (a) preceding under (i) a new agreement voluntarily executed by the Parties; (ii) standard terms and conditions approved and made generally effective by the Commission, if any; (iii) tariff terms and conditions made generally available to all Local Providers.

2.3 Termination Upon Default.

Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party; *provided however*, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) Days of receipt of written notice thereof. Following a non-defaulting Party's notice to the defaulting Party of its Default, the non-defaulting Party shall not be required to process new service orders until the Default is timely cured. Default is defined to include:

- (a) A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or

- (b) A Party's Certificate of Operating Authority has been revoked by the Commission, or
- (c) A Party's refusal or failure in any material respect properly to perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement.

2.4 Termination Upon Ordering and Implementation Inactivity.

Notwithstanding anything to the contrary contained herein, CenturyTel may terminate this Agreement in the event IDT has not (a) placed any initial orders for any of the services to be provided pursuant to this Agreement and (b) implemented any said services to IDT customers within one (1) year from the Effective Date of this Agreement.

2.5 Termination Upon Sale.

Notwithstanding anything to the contrary contained herein, a Party may terminate this Agreement as to a specific operating area or portion thereof if such Party sells or otherwise transfers the area or portion thereof to a non-affiliate. The selling or transferring Party shall provide the other Party with at least sixty (60) Business Days' prior written notice of such termination, which shall be effective on the date specified in the notice. Notwithstanding termination of this Agreement as to a specific operating area, this Agreement shall remain in full force and effect in the remaining operating areas.

2.6 Liability Upon Termination.

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

3. Amendments.

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

4. Assignment.

Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party, and the other Party being reasonably satisfied that the assignee is able to fulfill the assignor's obligations hereunder.

5. Authority.

Each person whose signature appears on this Agreement represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement. Each Party represents he or she has had the opportunity to consult with legal counsel of his or her choosing and neither Party has relied on the other Party's counsel or on representations by the other Party's personnel not specifically contained in this Agreement, in entering into this Agreement

6. Responsibility for Payment.

CenturyTel may charge IDT and IDT will pay CenturyTel a deposit before CenturyTel is required to perform under this agreement, if CenturyTel so deems a deposit appropriate after examination of IDT's payment and/or credit history. Such deposit will be calculated based on CenturyTel's estimated two-month charges to IDT. Deposits may be modified from time to time based on actual billing history and the credit rating of IDT. Interest will be paid on the deposit in accordance with state requirements for end user deposits.

7. CLEC Profile.

Before direct connection orders can be taken, the CLEC Profile in the form provided by CenturyTel must be completed by IDT and returned to CenturyTel; and, if required, by CenturyTel, an advanced deposit paid. Among other things IDT will provide CenturyTel with its Operating Company Number (OCN), Company Code (CC), and Customer Carrier Name Abbreviation (CCNA) as described in the CenturyTel Service Guide. IDT agrees to warrant to CenturyTel that it is a certified provider of telecommunications service in the State. IDT will document its Certificate of Operating Authority on the CLEC Profile and agrees to promptly update this CLEC Profile as required to reflect its current certification.

8. Contact Exchange.

The Parties agree to exchange and to update contact and referral numbers for order, inquiry, trouble reporting, billing inquiries, and information required to comply with law enforcement and other security agencies of the local, State and Federal governments.

9. Ordering and Electronic Interface.

Manual interface is currently being used for IDT to order services, and it includes facsimile orders and E-mail orders in accordance with the CenturyTel Service Guide. Conventional electronic ordering interface is not currently available. If CenturyTel later makes electronic interface ordering available to IDT, then the Parties agree that, to the extent practicable, electronic interface will be used by IDT for ordering services and manual interface will be discontinued unless this is impracticable.

10. Billing and Payment.

Except as provided elsewhere in this Agreement and where applicable, in conformance with Multiple Exchange Carrier Access Billing (MECAB) guidelines and Multiple Exchange Carriers Ordering and Design Guidelines for Access Services-Industry Support Interface (MECOD), IDT and CenturyTel agree to exchange all information to accurately, reliably, and properly order and bill for features, functions and services rendered under this Agreement.

10.1 Back Billing.

Neither Party will bill the other Party for previously unbilled charges for services that were provided longer ago than one (1) year or the applicable Federal or State statute of limitations, whichever is longer.

10.2 Dispute.

If one Party disputes a billing statement issued by the other Party, the billed Party shall notify Provider in writing regarding the nature and the basis of the dispute within thirty (30) business days of the receipt of the bill or the dispute shall be waived, subject to any State regulatory requirements. The Parties shall diligently work toward resolution of all billing issues. Notwithstanding the foregoing, if Provider notifies Party of the unpaid charges the dispute provisions thereof shall prevail.

10.3 Late Payment Charge.

If any undisputed amount due on the billing statement is not received by Provider on the payment due date, Provider shall calculate and assess, and Customer agrees to pay a charge on the past due balance at the lesser of an interest rate equal to the amount of 1½% charge per month, or the maximum nonusurious rate of interest under applicable law. Such late payment charges shall be included on the Provider's next statement.

10.4 Due Date.

Payment is due thirty (30) calendar days from the bill date.

10.5 Audits.

10.5.1 In General

Either Party may conduct an audit of the other Party's books and records pertaining to the Services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing, data and invoicing in accordance with this Agreement. Any audit shall be performed as follows: (i) following at least thirty (30) Business Days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.

10.5.2 Traffic Audits.

On twenty (20) Business Days written notice, each Party must provide the other the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic. CTOC and IDT shall retain records of call detail for a minimum of nine months from which a PIU can be ascertained. The audit shall be accomplished during normal business hours at an office designated by the Party being audited. Audit requests shall not be submitted more frequently than one (1) time per calendar year. Audit requests are limited to one (1) per calendar year including and covering Audits per Sections 10.5.1 and 10.5.2. Audits shall be performed by a mutually acceptable independent auditor paid for by the Party requesting the audit. The PIU shall be adjusted based upon the audit results and shall apply to the usage for the quarter the audit was completed, to the usage for the quarter prior to the completion of the audit, and to the usage for the two quarters following the completion of the audit. If, as a result of an audit either Party is found to have overstated the PIU by twenty percentage points (20%) or more, that Party shall reimburse the auditing Party for the cost of the audit.

11. Binding Effect.

This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

12. Capacity Planning and Forecasting.

Within twenty (20) Business Days from the effective date of this Agreement, or as soon after the effective date as practicable, the Parties agree to meet and develop joint planning and forecasting responsibilities which are applicable to, number portability and interconnection services. A Party may delay processing the other Party's service orders should the Parties not perform obligations as specified in this Section 12. Such responsibilities shall include but are not limited to the following:

- 12.1 The Parties will establish periodic reviews of network and technology plans and will notify one another no later than six (6) months in advance of changes that would impact either Party's provision of services.
- 12.2 Each Party will furnish to the other Party information that provides for statewide annual forecasts of order activity, in-service quantity forecasts, and facility/demand forecasts.
- 12.3 The Parties will develop joint forecasting responsibilities for traffic utilization over trunk groups and yearly forecasted trunk quantities as set forth in Article IV.
- 12.4 Each Party shall notify the other Party promptly of changes greater than ten percent (10%) to current forecasts (increase or decrease) that generate a shift in the demand curve for the following forecasting period. A Party's orders that exceed the capacity of that Party's forecast shall only be filled to the extent the requested capacity is Currently Available.
- 12.5 Each Party reserves the right to condition the fulfillment of additional service orders on satisfactory fill rates by the ordering Party in previously ordered capacity, or on payment for all of the additional capacity absent satisfactory fill rates.

13. Compliance with Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

14. Confidential Information.

14.1 Identification.

Either Party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information").

Notwithstanding the foregoing, preorders and all orders for services placed by IDT pursuant to this Agreement, and information that would constitute customer proprietary network information of IDT end user customers pursuant to the Act and the rules and regulations of the FCC, as well as recorded usage information

with respect to IDT end users, whether disclosed by IDT to CenturyTel or otherwise acquired by CenturyTel in the course of its performance under this Agreement shall be considered Confidential Information.

14.2 Handling.

In order to protect such Confidential Information from improper disclosure, each Party agrees:

- (a) That all Confidential Information shall be and shall remain the exclusive property of the source;
- (b) To limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information for performance of this Agreement;
- (c) To keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;
- (d) Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;
- (e) To return promptly any copies of such Confidential Information to the source at its request; and
- (f) To use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.

14.3 Exceptions.

These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the source, was already known or received in good faith from a third party, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, was expressly approved for release by written authorization of the disclosing Party, or that is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements.

14.4 Survival.

The obligation of confidentiality and use with respect to Confidential Information disclosed by one Party to the other shall survive any termination of this Agreement for a period of two (2) years from the date of the initial disclosure of the Confidential Information.

15. Consent.

Where consent notice, approval, mutual agreement, or similar action is permitted or required of a Party by any provision of this Agreement, it shall not be conditional, unreasonably withheld, or delayed.

16. Fraud.

Each Party assumes responsibility for all fraud associated with its end-user customers and accounts. Neither Party shall bear responsibility for, nor is it required to investigate or make adjustments to the other Party's account in cases of fraud.

17. Reimbursement of Expenses.

In performing under this Agreement either Party may be required to make expenditures or otherwise incur costs that are not otherwise reimbursed under this Agreement. The Party providing such services shall provide the other Party written notification when cost reimbursement from that Party is expected. The other Party will acknowledge and agree to the estimated cost before the providing Party is entitled to such reimbursement.

18. Dispute Resolution.

18.1 Alternative to Litigation.

Except for the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedures as the sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

18.2 Negotiations.

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

18.3 Arbitration.

If the negotiations do not resolve the dispute within sixty (60) Business Days of the initial written request, the dispute shall be submitted to binding arbitration. At the election of either Party, arbitration shall be before the Commission. Otherwise, arbitration shall be by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association ("AAA") except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. If the State Commission is selected as the arbitrator, its arbitration rules shall apply. Otherwise the rules described in part (a) below shall be applicable.

- (a) A Party may demand such arbitration in accordance with the procedures set out in AAA rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may

submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) Business Days of the demand for arbitration. The arbitration shall be held in a mutually agreeable city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause.

- (b) Judgment upon the award rendered by the arbitrator, whether it be the Commission or an AAA or other arbitrator, may be entered in any court having jurisdiction

18.4 Expedited Arbitration Procedures.

If the issue to be resolved through the negotiations referenced in Section 18.2 directly and materially affects service to either Party's end-user customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration shall be five (5) Business Days. Once such a service affecting dispute is submitted to arbitration, and if arbitration with the Commission is not selected, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 57).

18.5 Costs.

Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the reasonable costs of production of documents (including search time and reproduction costs).

18.6 Continuous Service.

The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure, and the Parties shall continue to perform their obligations in accordance with this Agreement. However, during the pendency of any dispute resolution procedures each Party reserves the right not to accept new service orders from the other Party.

19. Entire Agreement.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

20. Expenses.

Except as applicable in accordance with Section 17, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

21. Force Majeure.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other material change of circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); *provided however*, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease. It is expressly agreed that financial difficulties of a Party are not subject to this Section.

22. Good Faith Performance.

In the performance of their obligations under this Agreement, the Parties shall act in good faith. In situations in which notice, consent, approval or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be conditional, unreasonably withheld or delayed.

23. Governing Law.

This Agreement shall be governed by and construed in accordance with applicable federal and (to the extent not inconsistent therewith) domestic laws of the state where the services are provided or the facilities reside.

24. Standard Practices.

The Parties acknowledge that CenturyTel shall be adopting some industry standard practices and/or establishing its own standard practices to various requirements hereunder applicable to the CLEC industry which may be added in the CenturyTel Service Guide. IDT agrees that CenturyTel may implement such practices to satisfy any CenturyTel obligations under this Agreement.

25. Headings.

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

26. Independent Contractor Relationship.

The persons provided by each Party shall be solely that Party's employees and shall be under the sole and exclusive direction and control of that Party. They shall not be considered employees of the other Party for any purpose. Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment of labor, hours of labor, health and safety, working conditions and payment of wages. Each Party shall also be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, workers' compensation, disability insurance, and federal and state

withholding. Each Party shall indemnify the other for any loss, damage, liability, claim, demand, or penalty that may be sustained by reason of its failure to comply with this provision.

27. Law Enforcement Interface.

- 27.1 Except to the extent not available in connection with CenturyTel's operation of its own business, CenturyTel shall provide seven day a week/twenty-four hour a day assistance to law enforcement persons for emergency traps, assistance involving emergency traces and emergency information retrieval on customer invoked CLASS services.
- 27.2 CenturyTel agrees to work jointly with IDT in security matters to support law enforcement agency requirements for taps, traces, court orders, etc.
- 27.3 Each Party will, in non-emergency situations, inform the requesting law enforcement agencies that the end-user to be wire tapped, traced, etc. is the other Party's Customer and shall refer them to the other Party.

28. Liability and Indemnity.

28.1 Indemnification.

Subject to the limitations set forth in Section 28.4 of this Article III, each Party agrees to release, indemnify, defend, and hold harmless the other Party and its parent and its affiliates and their officers, directors and employees (the "indemnified Party") from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for losses, damages, or destruction of property, whether or not owned by others, proximately caused by the indemnifying Party's negligence or willful misconduct, regardless of form of action. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which it is claimed that the indemnifying Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party or any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.

28.2 End-User and Content-Related Claims.

The Indemnifying Party agrees to release, indemnify, defend, and hold harmless the other Party, its affiliates, and any third-party provider or operator of facilities involved in the provision of services or Facilities under this Agreement (collectively, the "Indemnified Party") from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by the Indemnifying Party's end-users against an Indemnified Party arising from Services or Facilities. The Indemnifying Party further agrees to release,

indemnify, defend, and hold harmless the Indemnified Party from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by any third party against an Indemnified Party arising from or in any way related to actual or alleged defamation, libel, slander, interference with or misappropriation of proprietary or creative right, or any other injury to any person or property arising out of content transmitted by the Indemnifying Party and the Indemnified Party or such Party's end-users, or any other act or omission of the Indemnified Party or such Party's end-users.

28.3 DISCLAIMER

EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES TO CUSTOMER CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. PROVIDER DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

28.4 Limitation of Liability.

Each Party's liability to the other Party, whether in contract, tort or otherwise, shall be limited to direct damages, which shall not exceed the monthly charges, plus any related costs/expenses either Party may recover, including those under Section 15 above, and plus any costs/expenses for which the Parties specify reimbursement in this Agreement for the services or facilities for the month during which the claim of liability arose. Under no circumstance shall either Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or any accessories attached thereto, delay, error, or loss of data. Should either Party provide advice, make recommendations, or supply other analysis related to the services or facilities described in this Agreement, this limitation of liability shall apply to provision of such advice, recommendations, and analysis.

29. Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

30. No Third Party Beneficiaries.

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

31. Notices.

Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally, on the date receipt is acknowledged in writing by the recipient if delivered by regular U.S. mail, or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable street or post office box address indicated below or such address as the Party to be notified has

designated by giving notice in compliance with this Section: Although E-mail will not be used to provide notice, the Parties provide their E-mail addresses below to facilitate informal communications.

If to CenturyTel:

CenturyTel, Inc.
Attention: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203
Telephone number: (318) 388-9000
Facsimile number: (318) 388-9072

With a copy to:

Carrier Relations
CenturyTel
805 Broadway
Vancouver, WA 98660
Telephone number: (360) 905-6985
Facsimile number: (360) 905-6811

If to IDT:

Ana Bataille
IDT America, Corp.
520 Broad Street
Newark, New Jersey 07102
Telephone number: (973) 438-4491
Facsimile number: (973) 438-1455
E-mail: Ana. Bataille@corp.idt.net

With a copy to:

Chana Goldberger
IDT America, Corp.
520 Broad Street
Newark, New Jersey 07102

32. Protection.

32.1 Impairment of Service.

The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in its services, cause damage to its plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities or create hazards to the employees of either Party or to the public (each hereinafter referred to as an "Impairment of Service").

32.2 Resolution.

If either Party causes an Impairment in Service, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, then the Impaired Party may at its

option temporarily discontinue the use of the affected circuit, facility or equipment.

33. Publicity.

Any news release, public announcement, advertising, or any form of publicity pertaining to this Agreement, provision of Services or Facilities pursuant to it, or association of the Parties with respect to provision of the services described in this Agreement shall be subject to prior written approval of both CenturyTel and IDT.

34. Regulatory Agency Control.

This Agreement shall at all times be subject to changes, modifications, orders, and rulings by the Federal Communications Commission and/or the applicable State Commission to the extent the substance of this Agreement is or becomes subject to the jurisdiction of such agency.

35. Changes in Legal Requirements.

CenturyTel and IDT further agree that the terms and conditions of this Agreement were composed in order to effectuate the legal requirements in effect at the time the Agreement was produced. Any modifications to those requirements will be deemed to automatically supersede any terms and conditions of this Agreement.

36. Effective Date.

This Agreement will be effective only upon execution by both Parties unless prior Commission approval is required, in which case this Agreement shall be effective upon Commission approval. The "effective date" of this Agreement for all purposes will be the latest date reflected by the signing parties. The Parties agree that orders for services will not be submitted or accepted until the later of (a) the submission of the CLEC Profile required by Section 7; or (b) the expiration of the first ten (10) Business Days after the Agreement is effective.

37. Regulatory Matters.

Each Party shall be responsible for obtaining and keeping in effect all FCC, Commission, franchise authority and other regulatory approvals that may be required in connection with the performance of its obligations under this Agreement.

38. Rule of Construction.

No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

39. Section References.

Except as otherwise specified, references within an Article of this Agreement to a Section refer to Sections within that same Article.

40. Severability.

If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results, in the opinion of either Party, in a material change to this Agreement. If a material change as described in this paragraph occurs as a result of action by a court or regulatory agency, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon within a reasonable period, either Party may terminate this Agreement without penalty or liability for such termination upon written notice to the other Party.

41. Subcontractors.

Provider may enter into subcontracts with third parties or affiliates for the performance of any of Provider's duties or obligations under this Agreement, provided that a Provider remains liable for the performance of its duties and obligations hereunder.

42. Subsequent Law.

The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, or regulation, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, or regulation. Further, to the extent such law, rule, or regulation allows one or both Parties the choice to operate, voluntarily, in a manner contrary to the current term(s) and condition(s) of this Agreement, the Parties agree to modify, in writing, the affected term(s) and condition(s), should one or both Parties choose to avail themselves of such law, rule, or regulation. The Dispute Resolution provisions of Article III, Section 18 shall also govern any disputes arising out of or relating to such modifications. To the extent that subsequent applicable laws, rules or regulations of Federal, State or local governmental authority require modification or negotiation of one or more terms of this Agreement, the Parties agree to begin negotiating such terms within twenty (20) Business Days after such subsequent change. If negotiations fail within forty (40) Business Days thereafter, this matter shall proceed to the Dispute Resolution procedures of Article III, Section 18, with the consequent changes in this Agreement to be retroactive to when negotiations began under this Section.

43. Taxes.

Any state or local excise, sales, or use taxes (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes is placed upon the other Party. The collecting Party shall charge and collect from the obligated Party, and the obligated Party agrees to pay to the collecting Party, all applicable taxes, except to the extent that the obligated Party notifies the collecting Party and provides to the collecting Party appropriate documentation as CenturyTel requires that qualifies the obligated Party for a full or partial exemption. Any such taxes shall be shown as separate items on applicable billing documents between the Parties. The obligated Party may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party by reason of the contest. The collecting Party shall cooperate in any such contest by the other Party. The other Party will indemnify the collecting Party from any sales or use taxes that may be subsequently levied on payments by the other Party to the collecting Party.

Notwithstanding anything to the contrary contained herein, each Party is responsible for furnishing tax exempt status information to the other Party at the time of the execution of the Agreement. Each Party is also responsible for furnishing any updates or changes in its tax exempt status to the other Party during the Term of the Agreement and extensions thereof. In addition, each Party is responsible for submitting and/or filing tax exempt status information to the appropriate regulatory, municipality, local governing, and/or legislative body. It is expressly understood and agreed that a Party's representations to the other Party concerning the status of its claimed tax exempt status, if any, and its impact on this Section 43 are subject to the indemnification provisions of Section 28.1.

43.1 Tax.

A charge which is statutorily imposed by the state or local jurisdiction and is either (a) imposed on the seller with the seller having the right or responsibility to

pass the charge(s) on to the purchaser and the seller is responsible for remitting the charge(s) to the state or local jurisdiction or (b) imposed on the purchaser with the seller having an obligation to collect the charge(s) from the purchaser and remit the charge(s) to the state or local jurisdiction.

Taxes shall include but not be limited to: federal excise tax, state/local sales and use tax, state/local utility user tax, state/local telecommunication excise tax, state/local gross receipts tax, and local school taxes. Taxes shall not include income, income-like, gross receipts on the revenue of a Provider, or property taxes. Taxes shall not include payroll withholding taxes unless specifically required by statute or ordinance.

43.2 Fees/Regulatory Surcharges.

A charge imposed by a regulatory authority, other agency, or resulting from a contractual obligation, in which the seller is responsible or required to collect the fee/surcharge from the purchaser and the seller is responsible for remitting the charge to the regulatory authority, other agency, or contracting party.

Fees/Regulatory Surcharges shall include but not be limited to E-911/911, other N11, franchise fees, and Commission surcharges.

44. Trademarks and Trade Names.

Except as specifically set out in this Agreement, nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever.

45. Waiver.

The failure of either Party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to it under this Agreement, shall not be construed as a waiver of such provision or any provisions of this Agreement, and the same shall continue in full force and effect.

46. Environmental Responsibility.

The Parties agree that prior to such time as either Party may place its equipment in the other Party's premises pursuant to a collocation or some other arrangement, the Parties will negotiate appropriate terms with respect to responsibility for environmental matters.

47. TBD Prices.

If a provision references prices in an Attachment and there are no corresponding prices in such Attachment, such price shall be considered "To Be Determined" (TBD). With respect to all TBD prices, prior to a Party ordering any such TBD item, the Parties shall meet and confer to establish a price. If the Parties are unable to reach agreement on a price for such item, an interim price shall be set for such item that is equal to the price for the nearest analogous item for which a price has been established. Any interim prices so set shall be subject to modification by any subsequent decision of the Commission. If an interim price is different from the rate subsequently established by the Commission, any underpayment shall be paid, and any overpayment shall be refunded within 45 Business Days after the establishment of the price by the Commission.

ARTICLE IV

CONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC

1. Services Covered by This Article.

1.1 Types of Services.

This Article governs the provision of internetwork facilities (i.e., physical connection services and facilities), by CenturyTel to IDT or by IDT to CenturyTel and the transport and termination and billing of Local Traffic between CenturyTel and IDT. For purposes of this Agreement, Local Traffic shall be defined per Appendix C, Section 1.61. Traffic not meeting the definition of Local Traffic is not subject to this Agreement. CenturyTel reserves the right to otherwise seek compensation for such non-Local Traffic including the imposition of access charges where appropriate.

1.1.1 If it becomes necessary to implement a direct interconnection, IDT will initiate orders for trunk-side Local Traffic connection services by sending an ASR to CenturyTel. The ordering process is described in the CenturyTel Service Guide.

1.1.2 IDT will comply with the Capacity Planning and Forecasting provisions of Section 12, Article III and Section 4 of this Article IV before CenturyTel will process IDT's ASR for interconnection services.

2. Billing, Ordering and Rates.

2.1 Service Ordering, Service Provisioning, and Billing.

The following describes generally the processes CenturyTel will use for ordering, provisioning and billing for connection facilities and services. For ordering, IDT will issue an ASR to CenturyTel, the ASR will be reviewed by CenturyTel for validation and correction of errors. Errors will be referred back to IDT. IDT then will correct any errors that CenturyTel has identified and resubmit the request to CenturyTel through a supplemental ASR. Except as specifically provided otherwise in this Agreement, service ordering, provisioning, billing and maintenance shall be governed by the CenturyTel Service Guide.

2.2 Rates and Charges.

IDT agrees to pay to CenturyTel the rates and charges for the Services set forth in the applicable appendices to this Agreement and to the applicable Century Tel tariffs. Rates and charges are set forth in Appendix A attached to this Agreement and made a part hereof.

2.3 Billing.

If direct connection is implemented, CenturyTel shall render to IDT a bill for direct connection services on a current basis. Charges for physical facilities and other non-usage sensitive charges shall be billed in advance, except for charges and credits associated with the initial or final bills. Usage sensitive charges, such as charges for termination of Local Traffic, shall be billed in arrears.

2.4 Billing Specifications.

The Parties agree that billing requirements and outputs will be consistent with the Ordering & Billing Form (OBF) and also with Telcordia Technologies Billing Output Specifications (BOS).

2.4.1 Usage Measurement: Usage measurement for calls shall begin when Answer Supervision or equivalent Signaling System 7 (SS7) message is received from the terminating office and shall end at the time of call disconnect by the calling or called subscriber, whichever occurs first.

2.4.2 Minutes of use (MOU), or fractions thereof, shall not be rounded upward on a per-call basis, but will be accumulated over the billing period. At the end of the billing period, any remaining fraction shall be rounded up to the nearest whole minute to arrive at total billable minutes. MOU shall be collected and measured in minutes, seconds, and tenths of seconds.

3. Transport and Termination of Local Traffic.

3.1 Traffic to be Exchanged.

The Parties shall reciprocally terminate Local Traffic originating on each other's networks utilizing either Direct or Indirect Network Connections as provided in Section 4 or Section 5 herein. To this end, the Parties agree that there will be interoperability between their networks. In addition, the Parties will notify each other of any anticipated material change in traffic to be exchanged (e.g., traffic type, volume).

3.2 Compensation for Exchange of Local Traffic.

3.2.1 Mutual Compensation. The Parties shall compensate each other for the exchange of Local Traffic originated by or terminating to the Parties' end-user customers in accordance with Section 3.2.2 of this Article, subject to any applicable regulatory conditions. Charges for the transport and termination of optional EAS, intraLATA toll and interexchange traffic shall be in accordance with the Parties' respective intrastate or interstate access tariffs, as appropriate.

3.2.2 Bill-and-Keep. The Parties shall assume that Local Traffic originated by or terminating to the Parties' end-user customers is roughly balanced between the parties unless traffic studies indicate otherwise. Accordingly, the Parties agree to use a Bill-and-Keep Arrangement with respect to termination of Local Traffic only. Either Party may initiate a traffic study no more frequently than once every six (6) months. Such traffic study shall examine all Local Traffic excluding Local Traffic that is also Information Access Traffic. Should such traffic study indicate, in the aggregate, that either Party is terminating more than 60 percent of the other Party's total terminated minutes for Local Traffic excluding Local Traffic that is also Information Access Traffic, either Party may notify the other that mutual compensation will commence for such Local Traffic, excluding Local Traffic that is also Information Access Traffic, pursuant to the rates set forth in Appendix A of this Agreement and following such notice it shall begin and continue for the duration of the Term of this Agreement unless otherwise agreed pursuant subsequent traffic studies (not more frequent than every 12 months) indicate that the traffic has changed to reflect that neither party terminates more than 60% of the others traffic.

3.2.3 Percentage Interstate Usage. In the case where either Party desires to terminate its Local Traffic over or co-mingled on its switched access Feature Group D trunks, such Party will be required to provide a projected Percentage Interstate Usage ("PIU") to the other Party. All jurisdictional report requirements, rules and regulations for Interexchange Carriers specified in CenturyTel's Intrastate Access Services Tariff will apply to both Parties. Notwithstanding the foregoing, where the terminating Party has message recording technology that identifies the jurisdiction of traffic terminated as defined in this Agreement, such information, in lieu of the PIU factor, shall, at the terminating Party's option, be utilized to determine the appropriate local usage compensation to be paid.

3.3 Tandem Switching Local Traffic.

The Parties agree to enter into their own agreements with third-party providers. In the event that IDT sends traffic through CenturyTel's network to a third-party provider with whom IDT does not have a traffic interexchange agreement, then IDT agrees to indemnify CenturyTel for any termination charges rendered by a third-party provider for such traffic.

4. Network Connection.

4.1 Network Connection Architecture.

IDT may connect at any technologically feasible point within the CenturyTel network, as required by the FCC. In particular, and as discussed below, IDT can connect at any Currently Available Interconnection Points (IP). Connection at additional points will be reviewed on an individual case basis. Where the Parties mutually agree following a Bona Fide Request (BFR) to directly connect their respective networks, connection will be as specified in the following subsections. All things being equal, CenturyTel will work with IDT in all circumstances to install IPs within 120 calendar days, where technologically feasible and not economically burdensome. Direct connection between the parties will conform to industry standards and protocols and be consistent with Section 256 of the Act.

4.1.1 Subject to mutual agreement, the Parties may use the following types of network facility connection, using such interface media as are (i) appropriate to support the type of connection requested and (ii) available at the facility at which connection is requested. Where direct connection is utilized under options (a) or (b) below, the Parties will mutually designate at least one IP on CenturyTel's network within each CenturyTel local calling area for the routing of Local Traffic.

- a. A Mid-Span Fiber Meet within an existing CenturyTel exchange area whereby the Parties mutually agree to jointly plan and engineer their facility IP at a designated manhole or junction location with each Party being individually responsible for its incurred costs in establishing this arrangement. The IP is the physical demarcation depicting ownership of the fiber transmission facility.
- b. A Special Access and/or CLEC Dedicated Transport arrangement terminating at a CenturyTel Wire Center subject to the rates, terms, and conditions contained in CenturyTel's applicable tariffs. These

facilities will meet the standards set forth in such tariffs and/or industry standards.

- c. If the Parties agree, traffic may be exchanged via indirect connections by transiting a third-party provider's interconnection. In the event that one Party sends traffic through a third-party provider, then that Party agrees to indemnify the other Party for any termination, transiting or tandem charges rendered by a third-party provider for such traffic.

4.2 Compensation.

The Parties agree to the following compensation for direct connection facilities, depending on facility type.

- 4.2.1 Mid-Span Fiber Meet: Each Party shall pay for the interconnection facilities on their side of the IP. The IP will be at a technically feasible point within CenturyTel's exchange boundary.
- 4.2.2 Special Access: Each Party shall pay for the interconnection facilities on their side of the IP. The IP will be at a technically feasible point within CenturyTel's exchange boundary.

4.3 Trunking Requirements.

The Parties shall meet from time to time and agree on trunking availability and requirements in order for the Parties to begin exchange of traffic.

- 4.3.1 The Parties agree to establish trunk groups of sufficient capacity from the direct connection facilities such that trunking is available to any switching center designated by either Party, including end offices, tandems, and 911 routing switches. The Parties will mutually agree where one-way or two-way trunking will be available. The Parties may use two-way trunks for delivery of Local Traffic or either Party may elect to provision its own one-way trunks for delivery of Local Traffic to the other Party. If a Party elects to provision its own one-way trunks for Local Traffic, that Party will be responsible for its own expenses associated with the trunks.
- 4.3.2 The Parties agree to make available to each other trunks over which the Parties shall terminate Local Traffic to each other's end-users.
- 4.3.3 IDT and CenturyTel shall, where applicable, make reciprocally available, by mutual agreement, the required trunk groups to handle different traffic types. IDT and CenturyTel will support the provisioning of trunk groups that carry combined or separate Local Traffic. CenturyTel requires separate trunk groups from IDT to originate and terminate Non-Local Traffic calls and to provide Switched Access Service to IXC's. To the extent IDT desires to have any IXC's originate or terminate switched access traffic to or from IDT, using jointly provided switched access facilities routed through a CenturyTel access tandem, it is the responsibility of IDT to arrange for such IXC to issue an ASR to CenturyTel to direct CenturyTel to route the traffic. If CenturyTel does not receive an ASR from the IXC, CenturyTel will initially route the switched access traffic between the IXC and IDT. If the IXC subsequently indicates that it does not want the traffic routed to or from IDT, CenturyTel will not route the traffic.

4.3.3.1 Each Party agrees to route traffic only over the proper jurisdictional trunk group.

4.3.3.2 Each Party shall only deliver traffic over the local connection trunk groups to the other Party's access tandem for those publicly-dialable NXX Codes served by end offices that directly subtend the access tandem or to those wireless service providers that directly subtend the access tandem.

4.3.3.3 Neither party shall route Switched Access Service traffic over local connection trunks, or Local Traffic over Switched Access Service trunks.

4.3.4 End-Office Trunking. The Parties will work together to establish high usage end-office trunk groups sufficient to handle the greater of the actual or reasonably forecasted traffic volumes between a IDT end office and a CenturyTel end office.

4.3.5 Intentionally left blank.

4.3.6 Reciprocal traffic exchange arrangement trunk connections shall be made at a DS-1 or multiple DS-1 level, DS-3, (Synchronous Optical Network (SONET)) where technically available) and shall be jointly engineered to the applicable State grade of service standard.

4.3.7 IDT and CenturyTel agree to use diligent efforts to develop and agree on a Joint Connection Plan prescribing standards to ensure that the reciprocal traffic exchange arrangement trunk groups are maintained at the appropriate grade of service standard or the Joint Connection Plan referenced in Section 4.3.7. Such plan shall also include mutually-agreed upon default standards for the configuration of all segregated trunk groups.

4.3.8 SS7 Common Channel Signaling will be used to the extent that such technology is available. If SS7 is not available, Multi-Frequency Signaling (MF) will be used as specified.

4.3.9 The Parties agree to offer and provide to each other B8ZS Extended Superframe Format (ESF) facilities, where available, capable of voice and data traffic transmission. The Parties will support intercompany 64kbps clear channel where available.

4.3.10 Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an Access Service Request (ASR), or another industry standard eventually adopted to replace the ASR for local service ordering.

4.4 Trunk Forecasting.

4.4.1 The Parties will develop joint trunk group forecasting consistent with Article III, Section 12, and as a condition to CenturyTel's processing of IDT direct connection ASRs under Section 1.1. Direct connection forecasts must be provided between the Parties, once annually. The annual forecasts will include:

4.4.1.1 Yearly forecasted trunk quantities for no less than a two-year period (current year, plus one year); and the use of (i) CLCI-MSG

codes, which are described in Telcordia Technologies document BR 795-100-100; (ii) circuit identifier codes as described in BR 795-400-100; and (iii) Trunk Group Serial Number (TGSN) as described in BR 751-100-195.

4.4.2 The Parties agree to describe and disclose major network projects that affect the other Party with the annual forecasts provided pursuant to Section 4.4.1.1. Major network projects include but are not limited to trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities by either Party that are reflected by a significant increase or decrease in trunking demand for the succeeding forecast period.

4.4.3 The Parties will meet to review and reconcile their forecasts if their respective forecasts differ significantly from one another.

4.5 Trunk Facility Under Utilization.

At least once a year the Parties shall exchange trunk group measurement reports for trunk groups terminating to the other Party's network. In addition and from time to time, each Party will determine the required trunks for each of the other Party's trunk groups from the previous 12 months servicing data. Required trunks will be based on the State grade of service standard or the Joint Connection Plan referenced in Section 4.3.7. When a condition of excess capacity is identified, CenturyTel will facilitate a review of the trunk group existing and near term (3 to 6 months) traffic requirements with the customer for possible network efficiency adjustment.

4.6 Joint Trunk Planning Criteria.

In order to facilitate sound and economical network planning and provisioning, CenturyTel deployment of trunks for IDT use may be conditioned on (i) fill factors for trunks previously deployed for the IDT; (ii) compensation arrangements to reflect CenturyTel's and the IDT's proportionate use of the trunking; and (iii) whether the IDT ordered trunking is Currently Available.

4.7 Network Redesigns Initiated by CenturyTel.

CenturyTel will not charge IDT when CenturyTel initiates its own network redesigns/reconfigurations.

5. Indirect Network Connection.

5.1 Indirect Network Connection is intended to handle de minimis mutual traffic exchange until Local Traffic volumes grow to a point where it is economically advantageous to establish a direct connection.

5.2 The Parties agree to establish a direct connection for exchange of Local Traffic when any one of the following conditions is met for each month of a consecutive two-month period:

- a. Combined two-way traffic between two single switches of each Party reaches a DS-1 equivalent (200,000 combined minutes of use ("MOU")) per month;
- b. Traffic originating from a single CenturyTel switch to a single IDT switch reaches 100,000 MOUs per month; or

- c. When either Party is assessed transiting costs by a third party and such charges associated with a single traffic exchange route exceed \$200.00 per month.

5.3 Neither Party shall deliver traffic destined to terminate at the other Party's end office via another LEC's end office except as provided for in Section 4.1.1

6. Common Channel Signaling.

6.1 Service Description.

The Parties will provide Common Channel Signaling (CCS) to one another via Signaling System 7 (SS7) network connection, where and as available, in the manner specified in FCC Order 95-187, in conjunction with all traffic exchange trunk groups. The Parties will cooperate on the exchange of all appropriate SS7 messages for local and intraLATA call set-up signaling, including ISDN User Part (ISUP) and Transaction Capabilities Application Part (TCAP) messages to facilitate full interoperability of all CLASS Features and functions between their respective networks. Any other SS7 message services to be provided using TCAP messages (such as data base queries) will be jointly negotiated and agreed upon.

6.2 Signaling Parameters.

All SS7 signaling parameters will be provided in conjunction with traffic exchange trunk groups, where and as available. These parameters include Automatic Number Identification (ANI), Calling Party Number (CPN), Privacy Indicator, calling party category information, originating line information, charge number, etc. Also included are all parameters relating to network signaling information, such as Carrier Information Parameter (CIP), wherever such information is needed for call routing or billing.

6.3 Privacy Indicators.

Each Party will honor all privacy indicators as required under applicable law.

6.4 Third Party Signaling Providers.

IDT may choose a third-party SS7 signaling provider.

6.5 Multi-Frequency Signaling

In the case where CCS is not available, in band Multi-Frequency (MF), wink start, E & M channel associated signaling with ANI will be provided by the Parties. Network signaling information, such as CIC/OZZ, will be provided wherever such information is needed for call routing or billing.

7. Network Management Controls.

Each Party shall provide a 24-hour contact number for their Network Traffic Management centers, so that Network Management issues may be exchanged.. A fax number must also be provided to facilitate event notifications for planned mass calling events. Additionally, the Parties agree to work cooperatively to ensure that any "mass calling events" will not degrade or cause loss of service to each other's end-users. Each Party shall maintain the capability of implementing industry standard network protective controls.

8. Number Portability (NP)

8.1 Local Number Portability (LNP)

8.1.1 LNP shall be provided in response to a porting request from either Party, consistent with applicable time periods and procedures established by the Act and applicable FCC regulations. The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable.

8.1.2 The rate that the Parties will charge each other for LNP service under the Agreement is set forth in Exhibit B.

9. Dialing and Rating Equivalence

If both CenturyTel and IDT have telephone numbers associated with the same rate center, and the IDT subscriber is physically located in that rate center then CenturyTel will provide for dialing and rating equivalency regardless of whether the called party is a CenturyTel subscriber or IDT subscriber.

For example, if an outbound call can be dialed on a 7-digit basis to a CenturyTel subscriber in a given rate center, then there is no need for dialing the corresponding call on a 1+10-digit basis when it is made to an IDT subscriber who is physically located in the same rate center. Similarly, if an outbound call is rated as a local call when the called party is a CenturyTel subscriber in a given rate center, then the equivalent outbound call will be rated as a local call when the called party is an IDT subscriber who is physically located in the same rate center.

ARTICLE I
SIGNATURE PAGE

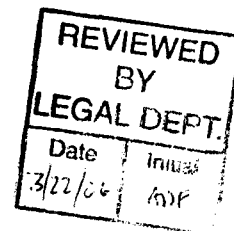
IN WITNESS WHEREOF, each Party has executed this Agreement. The Effective Date of this Agreement for such purposes will be established by the date of the final signature on this agreement subject to confirmation by Commission approval order.

CENTURYTEL OF MONTANA, INC.

By: Jeffrey S. Glover
Name: Jeffrey S. Glover
Title: V.P. Ext. Rel.
Date: 3-31-06

IDT AMERICA CORP.

By: James A. Counter
Name: James A. Counter
Title: CEO
Date: 3/23/06



APPENDIX A

RATES AND CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC

General. The rates contained in this Appendix A are the rates as defined in Article IV and are subject to change resulting from future Commission or other proceedings, or any appeal or other litigation.

Each Party will bill the other Party as appropriate:

A. Reciprocal Compensation

Local Traffic excluding Local Traffic that is also Information Access Traffic (If invoked pursuant to Article IV, Section 3.2.2)	TBD
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Local Traffic that is also Information Access Traffic	\$0.00
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B. Tandem Switching and Transiting	Not Applicable
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Tandem Switching:	Switched access tariff rate
Tandem Transport	Switched access tariff rate
Transport Termination	Switched access tariff rate

Transiting Charge:	
Tandem Switching:	Switched access tariff rate
Tandem Transport	Switched access tariff rate
Transport Termination	Switched access tariff rate

C. Initial Factors:

1.	Initial CenturyTel Originated Local Traffic Factor	50%
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APPENDIX B

RATES AND CHARGES FOR NUMBER PORTABILITY

General. The rates contained in this Appendix B are as defined in Article IV, Section 8, and are subject to change resulting from future Commission or other proceedings, or any appeal or other litigation.

Non-Recurring Charges (NRCs) for Local Number Portability

Service Order Charge

Applicable CenturyTel Local Tariff
Non-Recurring Service Charge for
Business Lines

APPENDIX C

DEFINITIONS

1. General Definitions.

Except as otherwise specified herein, the following definitions shall apply to all Articles and Appendices contained in this Agreement. Additional definitions that are specific to the matters covered in a particular Article may appear in that Article. To the extent that there may be any conflict between a definition set forth in this Appendix C and any definition in a specific Article or Appendix, the definition set forth in the specific Article or Appendix shall control with respect to that Article or Appendix.

1.1 Access Service Request (ASR)

An industry standard form, which contains data elements and usage rules used by the Parties to add, establish, change or disconnect services or trunks for the purposes of Interconnection.

1.2 Act

The Telecommunications Act of 1996, Public Law 104-104 of the 104th United States Congress effective February 8, 1996.

1.3 Affiliate

A person, corporation or other legal entity that, directly or indirectly, owns or controls a Party, or is owned or controlled by, or is under common ownership or control with a Party.

1.4 Answer Supervision

An off-hook supervisory signal.

1.5 Applicable Law

All laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, and approvals of any Governmental Authority, which apply or relate to the subject matter of this Agreement.

1.6 Automatic Location Identification/Data Management System (ALI/DMS)

The emergency services (E-911/911) database containing customer location information (including name, address, telephone number, and sometimes special information from the local service provider) used to process subscriber access records into Automatic Location Identification (ALI) records.

1.7 Automated Message Accounting (AMA)

The structure inherent in switch technology that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Telcordia Technologies as GR-1100-CORE, which defines the industry standard for message recording.

1.8 Automatic Number Identification (ANI)

The number transmitted through the network identifying the calling party's billing number.

1.9 **Basic Local Exchange Service**

Voice grade access to the network that provides the ability to place and receive calls; touch-tone service, access to operator services; access to directory assistance; access to emergency services (E911); access to telephone relay service (TRS); access to interexchange carriers of the customer's choice; standard white pages directory listing; and toll blocking for low-income consumers participating in Lifeline (subject to technical feasibility).

1.10 **Bill-and-Keep Arrangement**

A compensation arrangement whereby the Parties do not render bills to each other for the termination of Local Traffic specified in this Agreement and whereby the Parties terminate local exchange traffic originating from end-users served by the networks of the other Party without explicit charging among or between said carriers for such traffic exchange.

1.11 **Bona Fide Request (BFR)**

Process intended to be used when requesting customized service orders for certain services, features, capabilities or functionality defined and agreed upon by the Parties as services to be ordered as BFRs.

1.12 **Business Day**

Monday through Friday, except for holidays on which the non-priority U.S. mail is not delivered.

1.13 **Centralized Message Distribution System (CMDS)**

The billing record and clearing house transport system that the Regional Bell Operating Companies (RBOCs) and other incumbent LECs use to efficiently exchange out collectibles and in collectibles as well as Carrier Access Billing System (CABS) records.

1.14 **Central Office (CO)**

A telephone company building where customer lines are joined to a switch or switches for connecting customers to each other, for Local and non-Local Traffic.

1.15 **Central Office Switch**

A switch used to provide telecommunications services including (1) End Office Switches which are Class 5 switches from which end-user Exchange Services are directly connected and offered, and (2) Tandem Office Switches which are Class 4 switches used to connect and switch trunk circuits between and among central office switches. Central office switches may be employed as combination end office/tandem office switches (combination Class 5/Class 4).

1.16 **CenturyTel Service Guide**

The CenturyTel Service Guide, which contains CenturyTel's operating procedures for ordering, provisioning, trouble reporting and repair for resold services. Except as specifically provided otherwise in this Agreement, service ordering, provisioning, billing and maintenance shall be governed by the CenturyTel Service Guide, which may be amended from time to time by CenturyTel as needed.

1.17 **Certificate of Operating Authority**

IDT must represent and warrant to CenturyTel that it is a certified provider of local exchange service in the State and authorized within the CenturyTel local service area. IDT will provide a copy of its Certificate of Operating Authority or other evidence of its status to CenturyTel upon request. IDT will notify CenturyTel if its certificate has been revoked.

1.18 **CLASS**

CLASS is an acronym for Custom Local Area Signaling Services. It is based on the availability of common channel signaling. CLASS consists of number-translation services such as call-forwarding and caller identification, available within a local exchange. CLASS is a service mark of Bellcore, now Telcordia.

1.19 **CLLI Codes**

Common Language Location Identifier Codes.

1.20 **Commission**

The State Public Service or Public Utilities Commission, as applicable.

1.21 **Common Channel Signaling (CCS)**

A high-speed specialized packet-switched communications network that is separate (out-of-band) from the public packet-switched and message networks. CCS carries addressed signaling messages for individual trunk circuits and/or database-related services between Signaling Points in the CCS network using SS7 signaling protocol.

1.22 **Competitive Local Exchange Carrier (CLEC)**

Any company or person authorized to provide local exchange services in competition with an ILEC.

1.23 **Compliance**

Environmental and safety laws and regulations based upon a Federal regulatory framework, with certain responsibilities delegated to the States. An environmental/safety compliance program may include review of applicable laws/regulations, development of written procedures, training of employees and auditing.

1.24 **Conversation Time**

The time that both Parties' equipment is used for a completed call, measured from the receipt of Answer Supervision to the receipt of Disconnect Supervision.

1.25 **CTOC or CenturyTel**

The CenturyTel Operating Company in the State that is a Party to this Agreement.

1.26 **Currently Available**

Existing as part of CenturyTel's network at the time of the requested order or service and does not include any service, feature, function or capability that CenturyTel either does not provide to itself or to its own end users, or does not have the capability to provide.

1.27 **Customer**

The Party receiving service from the other. CenturyTel or IDT, depending on the context and which Party is receiving the service from the other Party.

1.28 **Customer Service Record Search**

Applied to LSR when CLEC requests a customer service record search prior to account conversion from CenturyTel or from another CLEC. Search typically is for basic account information, listing/directory information, service and equipment listing, and billing information. Applied on a per requested loop basis.

1.29 **Dedicated Transport**

An Unbundled Network Element that is purchased for the purpose of transporting Telecommunications Services between designated Central Offices. Dedicated Transport may only extend between two Central Offices.

1.30 **Disconnect Supervision**

An on-hook supervisory signal end at the completion of a call.

1.31 **DS-1**

A service carried at digital signal rate of 1.544 Mbps.

1.32 **DS-3**

A service carried at digital signal rate of 44.736 Mbps.

1.33 **Electronic File Transfer**

A system or process that utilizes an electronic format and protocol to send/receive data files.

1.34 **E-911 Service**

A method of routing 911 calls to a PSAP that uses a customer location database to determine the location to which a call should be routed. E911 service includes the forwarding of the caller's Automatic Number Identification (ANI) to the PSAP where the ANI is used to retrieve and display the Automatic Location Identification (ALI) on a terminal screen at the answering attendant's position. It usually includes selective routing.

1.35 **Exchange Message Record (EMR)**

An industry standard record used to exchange telecommunications message information among CLECs for billable, non-billable, sample, settlement and study data. EMR format is defined in BR-010-200-010 CRIS Exchange Message Record, published by Telcordia Technologies.

1.36 **Exchange Service**

All basic access line services, or any other services offered to end users which provide end users with a telephonic connection to, and a unique telephone number address on, the Public Switched Telecommunications Network (PSTN), and which enable such end users to place or receive calls to all other stations on the PSTN.

1.37 **Facility**

All buildings, equipment, structures and other items located on a single site or contiguous or adjacent sites owned or operated by the same persons or person as used in Article III, Section 46.

1.38 **FCC**

The Federal Communications Commission.

1.39 **Generator**

Under the Resource Conservation Recovery Act (RCRA), the person whose act produces a hazardous waste (40 CFR 261) or whose act first causes a hazardous waste to become subject to regulation. The generator is legally responsible for the proper management and disposal of hazardous wastes in accordance with regulations (see reference in Article III, Section 46).

1.40 **Hazardous Chemical**

As defined in the U.S. Occupational Safety and Health Act (OSHA) hazard contamination standard (29 CFR 1910.1200), any chemical which is a health hazard or physical hazard.

1.41 **Hazardous Waste**

As described in the Resource Conservation Recovery Act (RCRA), a solid waste(s), which may cause, or significantly contribute to an increase in mortality or illness or pose a substantial hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed because of its quantity, concentration or physical or chemical characteristics.

1.42 **Imminent Danger**

As described in the Occupational Safety and Health Act and expanded for environmental matters, any conditions or practices at a facility which are such that a danger exists which could reasonably be expected to cause death or serious harm or significant damage to the environment or natural resources.

1.43 **Incumbent Local Exchange Carrier (ILEC)**

Any local exchange carrier that was as of February 8, 1996, deemed to be a member of the Exchange Carrier Association as set forth in 47 C.F.R. §69.601(b) of the FCC's regulations.

1.44 **Indirect Network Connection**

The Interconnection of the Parties' networks for exchange of Local Traffic via a tandem switch belonging to a third party.

1.45 **Information Access Traffic**

Information Access Traffic, for the purpose of this Agreement, is traffic (excluding CMRS traffic) that is transmitted to or returned from the Internet at any point during the duration of the transmission between the Parties. Information Access Traffic is not Local Traffic unless the traffic is between an end-user and an ISP physically located in the same CenturyTel Local Calling Area. The term Information Access Traffic does not include transmission of voice

telecommunications traffic regardless of whether it is delivered to an ISP and regardless of whether it is carried at any point on facilities via Internet protocol.

1.46 **Information Service Provider or “ISP”**

A provider of Information Service, as defined in 47 U.S.C. 153(20). Information Service Provider includes, but is not limited to, Internet Service Providers.

1.47 **Initial Service Order**

A charge applied to each LSR of Unbundled Loops with the exception of Subsequent Service Order changes to existing CLEC accounts.

1.48 **Interconnection Facility**

See “Internetwork Facilities”.

1.49 **Interconnection Point (IP)**

The physical point on the network where the two parties interconnect. The IP is the demarcation point between ownership of the transmission facility.

1.50 **Interexchange Carrier (IXC)**

A telecommunications service provider authorized by the FCC to provide interstate long distance communications services between LATAs and is authorized by the State to provide inter- and/or intraLATA long distance communications services within the State.

1.51 **Internetwork Facilities**

The physical connection of separate pieces of equipment, transmission facilities, etc., within, between and among networks, for the transmission and routing of exchange service and exchange access.

1.52 **ISDN User Part (ISUP)**

A part of the SS7 protocol that defines call setup messages and call takedown messages.

1.53 **Line Side**

Refers to an end office switch connection that has been programmed to treat the circuit as a local line connected to an ordinary telephone station set. Line side connections offer only those transmission and signaling features appropriate for a connection between an end office and an ordinary telephone set.

1.54 **Local Access and Transport Area (LATA)**

A geographic area for the provision and administration of communications service; i.e., intraLATA or interLATA.

1.55 **Local Calling Area**

Local Calling Area includes the local exchange area, and any mandatory Extended Area Service (EAS) exchanges, as defined in CenturyTel local exchange tariffs.

1.56 **Local Exchange Carrier (LEC)**

Any company certified by the Commission to provide local exchange telecommunications service. This includes the Parties to this Agreement.

1.57 **Local Exchange Routing Guide (LERG)**

The Telcordia Technologies reference customarily used to identify NPA-NXX routing and homing information, as well as network element and equipment designation.

1.58 **Local Number Portability (LNP)**

The ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

1.59 **Local Provider**

A carrier authorized to provide local telecommunications service in the State.

1.60 **Local Service Request (LSR)**

The industry standard forms and supporting documentation used for ordering local services.

1.61 **Local Traffic**

Local Traffic is traffic (excluding CMRS traffic) that is originated and terminated within the CenturyTel Local Calling Area, or mandatory Extended Area Service (EAS) area, as defined in CenturyTel's local exchange tariffs. Local Traffic does not include optional local calling (i.e., optional rate packages that permit the end-user to choose a Local Calling Area beyond the basic exchange serving area for an additional fee), referred to hereafter as "optional EAS". Local Traffic includes Information Access Traffic to the extent that the end user and the ISP are physically located in the same CenturyTel Local Calling Area.

1.62 **Main Distribution Frame (MDF)**

The distribution frame used to interconnect cable pairs and line trunk equipment terminating on a switching system.

1.63 **Meet Point Billing (MPB)**

Refers to an arrangement whereby two LECs (including a LEC and CLEC) jointly provide Switched Access Service to an Interexchange Carrier, with each LEC (or CLEC) receiving an appropriate share of the revenues from the IXC as defined by their effective access Tariffs.

1.64 **Mid Span Fiber Meet**

An Interconnection architecture whereby two carriers' fiber transmission facilities meet at a mutually agreed upon IP.

1.65 **Multiple Exchange Carrier Access Billing (MECAB)**

Refers to the document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Telcordia Technologies as Special

Report SR-BDS-000983, contains the recommended guidelines for the billing of an access service provided by two or more LECs, or by one LEC in two or more states within a single LATA.

1.66 **Multiple Exchange Carriers Ordering and Design Guidelines for Access Services - Industry Support Interface (MECOD)**

A document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Telcordia Technologies as Special Report SR-STS-002643, establishes methods for processing orders for access service that is to be provided by two or more LECs.

1.67 **911 Service**

911 and E911 provides an End User access to the applicable emergency service bureau, where available, by dialing a 3-digit universal telephone number (911).

1.68 **North American Numbering Plan (NANP)**

The system of telephone numbering employed in the United States, Canada, and Caribbean countries that employ NPA 809.

1.69 **Numbering Plan Area (NPA)**

Also sometimes referred to as an area code, is the three-digit indicator which is defined by the "A", "B", and "C" digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized telecommunications service that may be provided across multiple geographic NPA areas. 800, 900, 700, and 888 are examples of Non-Geographic NPAs.

1.70 **NXX, NXX Code, Central Office Code or CO Code**

The three-digit switch entity indicator that is defined by the "D", "E", and "F" digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.

1.71 **Owner or Operator**

As used in OSHA regulations, owner is the legal entity, including a lessee, which exercises control over management and record keeping functions relating to a building or facility. As used in the Resource Conservation and Recovery Act (RCRA), Operator means the person responsible for the overall (or part of the) operations of a facility.

1.72 **Party/Parties**

CenturyTel and/or IDT.

1.73 **Pole Attachment**

A Party's use of space on telephone poles belonging to the other Party for attachment of cables and related materials to provide services in accordance with the terms and conditions of this Agreement.

1.74 **Provider**

The Party providing service to the other. CenturyTel or IDT depending on the context and which Party is providing the service to the other Party.

1.75 **Public Safety Answering Point (PSAP)**

An answering location for 911 calls originating in a given area. A PSAP may be designated as Primary or Secondary, which refers to the order in which calls are directed for answering. Primary PSAPs respond first; Secondary PSAPs receive calls on a transfer basis only, and generally serve as a centralized answering location for a particular type of emergency call. PSAPs are staffed by employees of Emergency Response Agencies (ERAs) such as police, fire or emergency medical agencies or by employees of a common bureau serving a group of such entities.

1.76 **Qualifying Service**

A Qualifying Service is a telecommunications service that competes with a telecommunications service that has been traditionally the exclusive or primary domain of incumbent local exchange carriers, including, but not limited to, local exchange service (such as "Plain Old Telephone Service"), and access service (such as DSL services and high-capacity circuits).

1.77 **Rate Center**

The specific geographic point and corresponding geographic area that are associated with one or more particular NPA-NXX Codes that have been assigned to a LEC for its provision of Exchange Services. The geographic point is identified by a specific Vertical and Horizontal (V&H) coordinate that is used to calculate distance-sensitive end user traffic to/from the particular NPA-NXXs associated with the specific Rate Center.

1.78 **Right-of-Way (ROW)**

The right to use the land or other property of another Party to place poles, conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property) and may include the right to use discrete space in buildings, building complexes, or other locations.

1.79 **Routing Point**

Denotes a location that a LEC has designated on its network as the homing (routing) point for traffic that terminates to Exchange Services provided by the LEC that bear a certain NPA-NXX designation. The Routing Point is used to calculate airline mileage for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Telcordia Technologies Practice BR795-100-100, the Routing Point may be an end office location, or a "LEC Consortium Point of Interconnection." The Routing Point must be in the same LATA as the associated NPA-NXX.

1.80 **Service Control Point (SCP)**

Service Control Point (SCP) means a node in the CCS network to which information requests for service handling, such as routing, are directed and processed. The SCP is a real time database system that, based on a query from a Service Switching Point (SSP), performs subscriber or application-specific service logic and then sends instructions back to the SSP on how to continue call processing.

1.81 **Service Switching Point (SSP)**

A Service Switching Point (SSP) is a Signaling Point (SP) that can launch queries to databases and receive/interpret responses in order to provide specific customer services.

1.82 **Signaling Point (SP)**

A node in the CCS network that originates and/or receives signaling messages, or transfers signaling messages from one signaling link to another, or both.

1.83 **Signaling System 7 (SS7)**

The signaling protocol, Version 7, of the CCS network, based upon American National Standards Institute (ANSI) standards.

1.84 **Signaling Transfer Point (STP)**

Signaling Transfer Point (STP) means a Packet Switch that performs message routing functions and provides information for the routing of Common Channel Signaling (CCS) messages.

1.85 **State**

The State in which Services are to be provided under the Agreement.

1.86 **Subsidiary**

A corporation or other legal entity that is majority owned by a Party.

1.87 **Subsequent Service Order**

Applied to LSRs requesting a service change to an existing unbundled account (no CLEC transfer). For disconnect-only LSRs, no NRC will be applied.

1.88 **Synchronous Optical Network (SONET)**

Synchronous electrical (STS) or optical channel (OC) connections between LECs.

1.89 **Switched Access Service**

The offering of facilities for the purpose of the origination or termination of traffic to or from Exchange Service customers in a given area pursuant to a switched access tariff. Switched Access Services include: Feature Group A, Feature Group B, Feature Group C, Feature Group D, 800 access and 900 access services.

1.90 **Tandem or Tandem Switch**

Tandem means to connect in series. A Tandem or Tandem Switch connects one trunk to another. It is an intermediate (Class 4) switch between an originating telephone call and the final destination of the call.

1.91 **TDM Technology**

Time Division Multiplexing. A method of multiplexing in which a common transmission path is shared by a number of channels on a cyclical basis by enabling each channel to use the path exclusively for a short time slot.

1.92 **Telcordia Technologies**

A wholly owned subsidiary of Science Applications International Corporation (SAIC). The organization conducts research and development projects for its owners, including development of new telecommunications services. Telcordia Technologies also provides certain centralized technical and management services for the regional holding companies and also provides generic requirements for the telecommunications industry for products, services and technologies.

1.93 **Telecommunications Services**

The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

1.94 **Third Party Contamination**

Environmental pollution that is not generated by the LEC or IDT but results from off-site activities impacting a facility.

1.95 **Transit Traffic**

Transit Traffic is traffic originating on IDT's network that is switched and/or transported by CenturyTel and delivered to a third party's network.

1.96 **Trunk Side**

Refers to a central office switch connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example, to another central office switch. Trunk side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone sets.

1.97 **Undefined Terms**

Undefined terms may appear in this Agreement. Parties acknowledge and agree that any such terms shall be construed in accordance with CenturyTel's tariffs, or, if not defined therein, under customary usage in the telecommunications industry as of the effective date of this Agreement.

1.98 **Wire Center**

A building or space within a building that serves as an aggregation point on a LEC's network, where transmission facilities and circuits are connected or switched.

Exhibit C

Service Date: July 11, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the Application of	)	UTILITY DIVISION
IDT America, Corp.)	
and	)	DOCKET NO. D2006.4.57
CenturyTel of Montana, Inc.)	
Pursuant to Section 252(e) of the	)	ORDER NO. 6752
Telecommunications Act of 1996 for Approval)	
of their Interconnection and Resale Agreement)	

FINAL ORDER

Introduction and Procedural Background

1. On February 8, 1996, the Telecommunications Act of 1996 (1996 Act)¹ was signed into law, ushering in a sweeping reform of the telecommunications industry that is intended to bring competition to the local exchange markets. The 1996 Act sets forth methods by which local competition may be encouraged in historically-monopolistic local exchange markets. The 1996 Act requires companies to negotiate agreements with new competitive entrants in their local exchange markets. 47 U.S.C. §§ 251 and 252.

2. CenturyTel of Montana, Inc. ("CenturyTel") entered into a voluntarily negotiated interconnection agreement with IDT America, Corp. ("IDT") for interconnection according to the 1996 Act. CenturyTel filed the parties' Traffic Exchange Agreement (Agreement) with the Montana Public Service Commission (Commission) on April 20, 2006.

3. The Commission issued a Notice of Application for Approval of the Interconnection Agreement and Opportunity to Intervene and Comment on April 24, 2006, giving public notice of the requirements that the Commission must approve the Agreement unless it finds the Agreement discriminates against other telecommunications carriers not parties to the agreement, or is not consistent with the public interest, convenience and necessity. The notice stated that no public hearing was contemplated unless requested by an interested party by May 12, 2006. The notice further stated that interested persons could submit limited comments

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.).

on whether the agreements met these requirements no later than May 22, 2006.

4. No hearing has been requested and no comments or requests for intervention were received.

Applicable Law and Commission Decision

5. The standards for approving an interconnection agreement differ, depending on whether the agreement has been voluntarily negotiated or has been arbitrated by a state commission. 47 U.S.C. § 252(e)(2). The Agreement submitted for approval in this proceeding was negotiated voluntarily by the parties and thus must be reviewed according to the provisions in 47 U.S.C. § 252(e)(2)(A).

6. Section 252(e)(4) of the 1996 Act provides that a negotiated agreement submitted for a state commission's approval must be approved or rejected within 90 days or it will be deemed approved. Thus, Commission approval or rejection according to the standards set forth in the 1996 Act must be issued by July 24, 2006, 90 days following the submission of the Traffic Exchange Agreement for Commission approval.

7. The Commission must approve or reject the agreement, with written findings as to any deficiencies. 47 U.S.C. § 252(e)(1). Section 252(e)(2)(A) prescribes the grounds for rejection of an agreement reached by voluntary negotiation:

- (2) GROUND FOR REJECTION. – The State commission may only reject –
 - (A) an agreement (or any portion thereof) adopted by negotiation under [47 U.S.C. § 252(a)] if it finds that
 - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
 - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity[.]

8. Notwithstanding the limited grounds for rejection in 47 U.S.C. § 252(e)(2)(A), the Commission's authority is preserved in § 252(e)(3) to establish or enforce other requirements of Montana law in its review of arbitrated or negotiated agreements, including requiring compliance with state telecommunications service quality standards or requirements. Such compliance is subject to § 253 of the 1996 Act, which does not permit states to impose any statutes, regulations, or legal requirements that prohibit or have the effect of prohibiting market entry.

9. Unlike an agreement reached through arbitration, a voluntarily negotiated agreement need not comply with standards set forth in §§ 251(b) and (c). 47 U.S.C. §§ 251(b), 252(c) and 252(a)(1) of the Act permit parties to agree to rates, terms and conditions for interconnection that may not be deemed just, reasonable and nondiscriminatory, and that are not determined according to the pricing standards included in § 252(c) of the Act, as would be required in the case of arbitrated rates set by the Commission.

10. By approving this Agreement, the Commission does not intend to imply that it approves of all the terms and conditions included in the Agreement and makes no findings herein on the appropriateness of many of the terms and conditions. Our interpretation of the 1996 Act is that §§ 252(a) and (c) prevent the Commission from addressing such issues in this proceeding.

11. No comments have been received that indicate the Agreement does not comply with federal law as cited above or with state telecommunications requirements. The Montana Consumer Counsel, who represents the consumers of the State of Montana, has not intervened in this approval proceeding, and has not filed comments to indicate that any portion of the Agreement is not consistent with the public interest, convenience and necessity. There have been no objections raised that the Agreement discriminates improperly or is not consistent with the public interest, convenience and necessity.

12. The Commission finds that the terms in the Agreement appear to conform to the standards required by the Act and should be approved. In approving this Agreement, the Commission is guided by provisions in state and federal law that have been enacted to encourage the development of competitive telecommunications markets. Section 69-3-802, MCA, for example, states that it is the policy of the State of Montana to encourage competition in the telecommunications industry and to provide for an orderly transition to a competitive market environment.

13. CenturyTel and IDT can agree that nothing in their Agreement prohibits certain conduct, but if that conduct otherwise violates the law, the provision in the Agreement that sanctions such conduct is void. §§ 28-2-604, 28-2-701, 28-2-702, MCA. Any provision or term of this Agreement that is in conflict with the law, whether or not specifically addressed by the Commission, is rejected as a matter of law and not in the public interest.

Conclusions of Law

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. CenturyTel is a telecommunications carrier providing regulated local exchange and other telecommunications services in the State of Montana. Section 69-3-101, MCA.

2. Before providing services in Montana, IDT initially will be required to register with the Commission as a telecommunications provider and to provide the requested information to the Commission, if it has not already done so. § 69-3-805, MCA.

3. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.

4. The United States Congress enacted the Telecommunications Act of 1996 to encourage competition in the telecommunications industry. Congress gave responsibility for much of the implementation of the 1996 Act to the states, to be handled by the state agency with regulatory control over telecommunications carriers. *See generally*, the Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 56 (*amending scattered sections of the Communications Act of 1934*, 47 U.S.C. §§ 151, *et seq.*). The Montana Public Service Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.

5. Adequate public notice and an opportunity to be heard has been provided to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

6. The Commission has jurisdiction to approve the agreement negotiated by the parties and submitted to the Commission for approval according to § 252(e)(2)(A). Section 69-3-103, MCA.

7. Approval of interconnection agreements by the Commission is subject to the requirements of federal law as set forth in 47 U.S.C. § 252. Section 252(e) limits the

Commission's review of a negotiated agreement to the standards set forth therein for rejection of such agreements. Section 252(e)(4) requires the Commission to approve or reject the Agreement by July 24, 2006, or the Agreement will be deemed approved.

8. The Commission may reject a portion of a negotiated agreement and approve the remainder of the agreement if such action is consistent with the public interest, convenience and necessity and does not discriminate against a carrier not a party to the agreement. 47 U.S.C. § 252(e)(2)(A).

Order

THEREFORE, based upon the foregoing, it is ORDERED that the Agreement of the parties submitted to this Commission for approval pursuant to the 1996 Act is approved subject to the following condition:

The parties shall file subsequent amendments to the Agreement with the Commission for approval pursuant to the 1996 Act.

DONE AND DATED this 6th day of July 2006, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman

BRAD MOLNAR, Vice Chairman

DOUG MOOD, Commissioner

ROBERT H. RANEY, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

Exhibit D

P.O. Box 9901
Vancouver, WA 98668-8701
Tel 360 905 5958
Fax 360 905 5953

calvin.simshaw@centurytel.com



Calvin K. Simshaw
Vice President
Associate General Counsel - Regulatory

VIA OVERNIGHT MAIL AND E-MAIL

Ana Bataille
IDT America, Inc.
520 Broad Street
Newark New Jersey 07102

Chana Goldberger
IDT America, Inc.
520 Broad Street
Newark New Jersey 07102

Re: Request to Port Numbers in Montana

Dear Ms. Bataille and Ms. Goldberger:

The Traffic Exchange Agreement Between CenturyTel of Montana, Inc. and IDT America, Corp. in the State of Montana (the "Agreement") was recently approved by the Montana Public Service Commission. Presumably pursuant to the Agreement, IDT has submitted requests that five local numbers be ported from CenturyTel to IDT. The requests were received on July 11 and 12, 2006. While it is true that the Agreement does contemplate and provide for the porting of numbers from CenturyTel to IDT, CenturyTel must decline to process the porting requests at this time for the reasons stated herein.

IDT entered the Agreement "...in its capacity as a certified Provider of local two-way wireline dial-tone service..." (see first paragraph of the Agreement). The intent of the Agreement was to cover arrangements concerning IDT's provision of local service to its end user customers. This is confirmed by the first sentence of Article I. SCOPE AND INTENT of the Agreement, which provides:

Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of the connection and the exchange of Local Traffic between their respective end user customers.

Therefore the arrangements provided by CenturyTel under the Agreement (including local number portability in Article IV. Section 8) are to be related to end user customers of IDT. CenturyTel has reason to believe that the above-referenced number porting requests submitted by IDT are not related to IDT end users. It appears to CenturyTel that the number porting requests

are likely related to end user customers of another company who does not have an interconnection agreement with CenturyTel. Provision of number porting under these circumstances would be outside the scope of the Agreement and inappropriate.

If you feel that CenturyTel is mistaken in this regard, please provide information that would validate that the number porting requests actually do relate to IDT end user customers and not the end users of another company. Otherwise, CenturyTel must continue to decline to process the number porting requests submitted by IDT.

I may be reached at (360) 905-5958 or calvin.simshaw@centurytel.com to discuss this matter.

Sincerely,

Calvin K. Simshaw
Assoc. Gen. Counsel

cc: Jackie Phillips

Exhibit E



IDT America, Inc.
520 Broad Street
Newark, New Jersey 07102

July 19, 2006

VIA OVERNIGHT MAIL AND EMAIL

Calvin K. Simshaw
Associate General Counsel - Regulatory
CenturyTel
P.O. Box 9901
Vancouver, WA 98668-8701
Tel 360-905-5958
Fax 360-905-5953
calvin.simshaw@centurytel.com

CenturyTel, Inc.
Attention: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203

**Re: CenturyTel's Failure to Comply with its Local Number Portability
Obligations in Montana**

Dear Mr. Simshaw:

This letter is in response to your letter to IDT America, Corp ("IDT") (undated and received via overnight mail on July 17, 2006) refusing to complete IDT's number porting requests. CenturyTel of Montana, Inc.'s ("CenturyTel") refusal to properly port numbers violates CenturyTel's local number portability ("LNP") obligations under the federal Communications Act of 1934, as amended ("Act"), the rules and regulations of the Federal Communications Commission ("FCC"), and the mutual Traffic Exchange Agreement ("MTE") between CenturyTel and IDT. ***CenturyTel must rectify this problem immediately or IDT will avail itself of any and all remedies available to it under the law.***

Duty to Port Numbers. CenturyTel has an expressed obligation under the MTE to port numbers to IDT. Section 8.1 of Article IV of the MTE obligates CenturyTel to port numbers when a port request is initiated by IDT. Specifically, Section 8.1.1 provides:

LNP *shall* be provided in response to a porting request from either Party, consistent with applicable time periods and procedures established by the Act and applicable FCC regulations. The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable. (Emphasis added)

Section 13 of Article III of the MTE further provides:

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

In addition, regardless of its contractual obligation, CenturyTel has a duty to provide number portability pursuant to §251(b)(2) of the Act.^{1/} LNP is defined as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”^{2/} When CenturyTel receives a port request from IDT, CenturyTel must port the number expeditiously “without impairment of quality, reliability, or convenience.” Thus, when one of CenturyTel’s customers chooses to switch his telephone service from CenturyTel to IDT and wants to keep his telephone number, CenturyTel is required to port the number so long as IDT has a footprint in the rate center.

CenturyTel’s sole reason for refusing to implement IDT’s port requests is based on a mistaken “belief that the porting requests submitted by IDT are not related to IDT end users.” CenturyTel has no right to refuse to port numbers based on the identity of IDT’s end users. CenturyTel’s refusal to port its customers’ numbers is a violation of the law and is a breach of the MTE.

CenturyTel fails to understand the legal definition of “end users.” IDT’s provision of telecommunications service to its customers is the provision of service to an end user. The FCC has explicitly stated that the provision of wholesale telecommunications services is considered the provision of telecommunications services to an end user by a telecommunications carrier.^{3/} When an entity purchases services from telecommunications carriers such as IDT on a wholesale basis it is a business end user. It is IDT’s status as a “telecommunications carrier” and its provision of local exchange

^{1/} 47 U.S.C. § 251(b)(2).

^{2/} 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(l). Notably, the definition of LNP contained in Appendix C, Section 1.58 of the MTE is identical to the definitions of LNP in the Act and FCC rules.

^{3/} *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905, ¶ 263 (1996) (“the definition of telecommunications services is intended to clarify that telecommunications services are common carrier services, which include wholesale services to other carriers”).

services that determines its entitlement to LNP processing under the Act.^{4/} As recognized by the FCC, wholesale entities such as VoIP service providers must purchase telecommunications services from regulated telecommunications carriers like IDT in order to originate and terminate calls on the public switched network, access 911 services, and obtain numbering resources.^{5/} CenturyTel cannot refuse to fulfill contract or legal obligations to consumers and co-carriers such as IDT because of the type of end user IDT serves. This is discrimination.

Numerous states, including New York, Illinois, Iowa, and Ohio, have ruled that an entity providing services to a wholesale provider is deemed to be a telecommunications carrier with rights under Sections 251 and 252.^{6/} These state commissions found that the services provided to the wholesale service provider were well within the scope of what telecommunications carriers commonly do and are “no different than [the services] performed by other competitive local exchange carriers.”^{7/} As a result, these state commissions determined that telecommunications carriers offering services to wholesale service providers were entitled to interconnection and other rights under Sections 251 and 252 because those telecommunications carriers were “acting in a role no different than other telecommunications carriers whose network could interconnect with [ILECs] so that traffic is terminated to and from each network and across networks.”^{8/}

In addition, by questioning the identity of IDT’s customers CenturyTel is engaging in improper re-verification. Under the FCC’s rules, the role of the executing carrier is clearly defined:

^{4/} *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 785 (1997) (finding telecommunications services “include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers”).

^{5/} See, e.g., *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 38 (2005) (noting that VoIP service providers obtain 911 services from competitive local exchange carriers); *IP-Enabled Services*, 19 FCC Rcd 4863, ¶ 12 (2004) (recognizing that VoIP service providers obtain telecommunications services from telecommunications carriers in order to provide services to the VoIP service provider’s customers).

^{6/} Case 05-C-0170, *Petition of Sprint Communications Company L. P., Pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration to Establish an Intercarrier Agreement with Independent Companies*, Order Resolving Arbitration Issues (N.Y.P.S.C. May 24, 2005) (“*New York Order*”), on appeal *Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ Action No. 05-CV-6502 (CJS) (MWP) (W.D.N.Y. filed Sept. 26, 2005); Case Nos. 050259, et al., *Cambridge Telephone Company, et al. Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties under §§ 251(b) and (c) of the Federal Telecommunications Act* (I.C.C. July 13, 2005) (“*Illinois Order*”); Docket No. ARB-05-02, *Arbitration of Sprint Communications Co. v. Ace Communications Group, et al.*, Order on Rehearing (I.U.B. Nov. 28, 2005) (“*Iowa Order*”); Case Nos. 04-1494-TP-UNC, et al., *Application and Petition in Accordance with Section II.A.2.b of the Local Service Guidelines Filed by: The Champaign Telephone Co., Telephone Services Co., the Germantown Independent Telephone Co., and Doylestown Telephone Co.*, Finding and Order (P.U.C.O. Jan. 26, 2005) (“*Ohio Order*”), reh’g denied in pertinent part, Order on Rehearing (P.U.C.O. Apr. 13, 2005).

^{7/} *New York Order* at 5.

^{8/} *Ohio Order* at 4-5, ¶ 7.

An executing carrier [here CenturyTel] shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier [IDT]. For an executing carrier, compliance with the procedures described in this part shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier.^{9/}

The FCC has confirmed that executing carriers cannot delay provider change requests even if the customer's name on the port request does not match the name in the executing LEC's database.^{10/} The FCC deems this type of behavior to be improper re-verification and clarified that such behavior creates a *de facto* freeze of the provider change and is therefore anti-competitive.

Accordingly, when CenturyTel receives IDT's porting request in the form of a local service request ("LSR"), it may verify the customer's account information to ensure the name, address, telephone number, etc. are correct. It may also confirm that the number is eligible for porting and that IDT has a footprint or numbering resources in the rate center. Beyond that, CenturyTel's only duty is to port the number to IDT as expeditiously as possible.

Duty to Route Calls to Ported Numbers. The FCC has emphasized that "[r]egardless of a carrier's obligation to provide number portability, all carriers have a duty to *route* calls to ported numbers. In other words, carriers must ensure that their call routing procedures do not result in dropped calls to ported numbers."^{11/}

What this means is that when a subscriber has chosen to take his number with him to IDT, CenturyTel must route to IDT calls placed by your customers to that number. The identity of IDT's end users is irrelevant. As the FCC stated, it is essential that customers not experience "any degradation in service quality or network reliability when customers switch carriers."^{12/} When a ported customer cannot receive calls originated by CenturyTel customers or a porting request is denied by CenturyTel, the customer is experiencing exactly that sort of degradation.

^{9/} 47 CFR § 64.1120(a)(2).

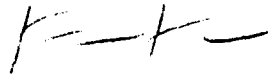
^{10/} *In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, LEC Coalition Request for Declaratory Ruling Regarding Carrier Change Verification*, CC Docket No. 94-129, DA 05-1618 (2005); see also, *Public Notice Consumer & Governmental Affairs Bureau Seeks Comment on an Application for Review Filed by the Rural Local Exchange Carriers*, CC Docket 94-129, DA 05-3131 (2005).

^{11/} CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of InterIsland, Inc., Apparent Liability for Forfeiture, DA 04-1303, 19 FCC Rcd 8543 ¶ 4 (rel. May 13, 2004).

^{12/} *Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 ¶ 48 (1996). See also, 47 C.F.R. § 52.23(a)(5).

It is IDT's expectation that CenturyTel will resolve this issue immediately by honoring all pending ports upon receipt of this letter and executing all future port requests within the required time interval for porting numbers. Please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Kaplan', with a long horizontal stroke extending to the right.

Kenneth M. Kaplan, Esq.
IDT Corporation

cc: Carrier Relations
CenturyTel
805 Broadway
Vancouver, WA 98660

Cherie Kiser, Esq.
Mintz Levin
(via email only)

Exhibit F



VIA DHL OVERNIGHT AND EMAIL

August 11, 2006

Calvin K. Simshaw
Associate General Counsel - Regulatory
CenturyTel
P.O. Box 9901
Vancouver, WA 98668-8701
Tel 360-905-5958
Fax 360-905-5953
calvin.simshaw@centurytel.com

CenturyTel, Inc.
Attention: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203

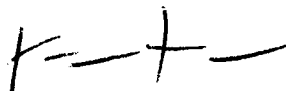
**Re: CenturyTel's Failure to Comply with its Local Number Portability
Obligations in Montana**

Dear Mr. Simshaw:

By attached letter dated July 19, 2006 ("Letter"), and subsequent call on July 20, 2006, IDT America, Corp. ("IDT") gave you notice of CenturyTel of Montana, Inc.'s (CenturyTel") continued failure to meet its local number portability obligations under state and federal laws and in breach of its interconnection agreement with IDT in Montana. Pursuant to that Letter, IDT notified CenturyTel that unless CenturyTel immediately ports the numbers requested, IDT will avail itself of any and all remedies available to it under the law. Although we have provided CenturyTel with ample opportunity to cure its violation of applicable laws and breach of its interconnection agreements, CenturyTel has failed to do so. As stated in the Letter IDT is, in fact, pursuing a petition to initiate an expedited complaint proceeding against CenturyTel with the Public Service Commission of the State of Montana in accordance with Montana Revised Statute Section 69-3-830.

Please do not hesitate to contact us if you have any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'K. Kaplan', with a stylized flourish at the end.

Kenneth M. Kaplan, Esq.
IDT Corporation

cc: Carrier Relations
CenturyTel
805 Broadway
Vancouver, WA 98660

Tim Sweeney, Attorney
Montana Public Service Commission
(via email only)

Gary Duncan, Rate Analyst
Montana Public Service Commission
(via email only)

Cherie Kiser, Esq.
Mintz Levin
(via email only)

Attachment 2

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF CENTURYTEL OF) UTILITY DIVISION
MONTANA, INC., Complaint by IDT America,)
Corp.) Docket No. D2006-8-121

**CENTURYTEL'S RESPONSE TO AMENDED COMPLAINT
AND PETITION FOR EXPEDITED COMPLAINT PROCEEDING**

On August 21, 2006 IDT America, Corp. ("IDT") filed its Amended Complaint and Petition for Expedited Complaint Proceeding ("Amended Complaint"). Pursuant to MCA §69-3-830 (2), CenturyTel of Montana, Inc. ("CenturyTel") files this response to the Amended Complaint. CenturyTel will begin with a general response to the Amended Complaint followed by CenturyTel's affirmative allegations. The response will then present a more itemized paragraph by paragraph response to the amended Complaint. In this response CenturyTel will focus on the factual allegations in the Amended Complaint as well as those missing facts that effectively invalidate the claims made in the Amended Complaint. In this response CenturyTel will briefly describe the law that should be applied to the pertinent facts, mindful that the bulk of the legal argument should be reserved for the Parties' legal briefs, which are scheduled to be filed simultaneously in this matter on October 13, 2006.

General Response

1. CenturyTel denies that it has violated any laws or interconnection agreement provisions with regards to porting numbers when a CenturyTel customer

decides to switch service from CenturyTel to another local service provider. CenturyTel stands ready to port numbers to the new service provider once an appropriate interconnection agreement with that local service provider is in place.

2. The essence of IDT's complaint is contained in two statements, one at Paragraph 11 of the Amended Complaint and the other at Paragraph 22. At Paragraph 11 IDT makes the following statement:

Thus, when one of CenturyTel's customers chooses to switch his telephone service from CenturyTel to IDT and wants to keep his telephone number, CenturyTel is required to port the number so long as IDT has a presence in the rate center. (emphasis added)

CenturyTel denies that there are any CenturyTel customers who have chosen to switch their service from CenturyTel to IDT. The number porting requests that are the subject of the Amended complaint do not involve CenturyTel customers who have chosen to switch their service from CenturyTel to IDT. The customers in question may have requested to change their service from CenturyTel to Bresnan¹. If Bresnan indicates that this is the case, CenturyTel is fully prepared to port the numbers to Bresnan as the new local service provider upon execution of an appropriate interconnection agreement. In fact Bresnan has previously requested an interconnection agreement with CenturyTel for that purpose. A copy of Bresnan's request for an interconnection agreement with CenturyTel is attached to this response as Exhibit A.

3. At Paragraph 22 of the Amended Complaint, IDT states the basis for its claim that it is entitled to have the numbers in question ported to it as follows:

It is IDT's status as a "telecommunications carrier" and its provision of local exchange services that determines its entitlement to LNP processing under the Act, not the business of its end users. (emphasis added, footnote deleted)

¹ In this response CenturyTel uses the term "Bresnan" to collectively refer to the operations of Bresnan Digital Services, LLC and its subsidiary Bresnan Broadband of Montana, LLC.

CenturyTel denies that IDT is, or would be providing local exchange service in connection with the customers and number ports that are the subject of this proceeding. (Hereinafter, the customers that are the subject of the Amended Complaint are referred to as the “Subject Customers”) CenturyTel asserts that it is, or would be Bresnan and not IDT that would be providing local exchange service to the Subject Customers. Therefore CenturyTel’s obligation to port numbers would run to Bresnan as the provider of local exchange service and not to IDT.

4. CenturyTel submits that it is Bresnan and IDT that would be providing local exchange service to the Subject Customers. Factors that support this conclusion are set forth in the following section of this Response entitled ‘CenturyTel’s Affirmative Allegations.’

CenturyTel’s Affirmative Allegations

5. CenturyTel asserts that it is Bresnan and not IDT that would be providing local exchange service to the Subject Customers. This conclusion is born out by the following factors, which are alleged by CenturyTel and are indicative of the provision of local exchange service:

A. The service that the Subject Customers are seeking was created, packaged and marketed by Bresnan and not IDT. The service features were selected by Bresnan and not IDT. The pricing was set by Bresnan and not IDT. The advertising clearly identifies Bresnan as the service provider. The advertising does not mention IDT.

B. It is Bresnan and not IDT that signs up the customers for the service.

C. It is Bresnan and not IDT that responds to customer inquiries regarding the service.

D. It is Bresnan and not IDT that sends the customers a bill for the service. IDT is not identified or mentioned on the bill.

E. It is Bresnan and not IDT that is entitled to revenues from the service. Any compensation that IDT may receive for providing inputs to Bresnan that Bresnan may use in providing the service are handled by contract between Bresnan and IDT.

F. It is Bresnan and not IDT that owns, operates and maintains the “last mile” facility running to the customer’s premise.

G. It is Bresnan and not IDT that the Commission would look to in responding to customer complaints regarding this competitive basic local exchange service.

H. Most significantly, the customers perceive Bresnan and not IDT as being the provider of the service.

6. CenturyTel affirmatively alleges that the arrangement between IDT and Bresnan is in large part designed and intended to shield Bresnan from any level of regulation by this Commission. IDT’s statement at Paragraph 23 of the Amended Complaint that “Bresnan is not a telecommunications carrier” is consistent with this objective. Bresnan’s failure to carry through with its earlier request for an interconnection agreement with CenturyTel is also consistent with this objective. Part of executing an interconnection agreement is acknowledging that the requesting party is a telecommunications carrier entitled to such agreement. Bresnan seems now to be refusing to enter an interconnection agreement with CenturyTel even though Bresnan is providing a competitive local exchange service in CenturyTel’s service territory. Bresnan refuses to enter an interconnection agreement with CenturyTel even though

Bresnan has recently executed an interconnection agreement with Qwest in Montana.²

The coordinated actions of IDT and Bresnan in this matter are a transparent attempt to allow Bresnan to hide behind IDT and for IDT to shield Bresnan from any level of regulation by this commission.

Itemized Response to Paragraphs in the Amended Complaint

7. CenturyTel denies the allegations in Paragraph 1 of the Amended Complaint that it has violated state and federal laws pertaining to local number portability or that it has breached its Interconnection Agreement with IDT.

8. CenturyTel does not dispute the allegation contained in Paragraph 2 of the Amended Complaint that IDT has registered as a telecommunications provider in Montana. CenturyTel asserts that Bresnan has also registered as a telecommunications provider in Montana.

9. CenturyTel does not dispute the allegations contained in Paragraph 3 of the Amended Complaint.

10. Concerning the allegations in Paragraph 4 of the Amended Complaint, CenturyTel does not dispute that the Subject Customers were seeking to switch their local service provider from CenturyTel to Bresnan. CenturyTel denies that IDT is providing LEC services in CenturyTel's service territory. CenturyTel denies that IDT is, or would have been the local service provider for the Subject Customers.

² See Notice issued August 30, 2006 In the Matter of the Application of Bresnan Broadband of Montana, LLC and Qwest Corporation Pursuant to Section 252(e) of the Telecommunications Act of 1996 for Approval of their Interconnection and Resale Agreement, Docket No. D2006.8.123.

11. Concerning the allegations in Paragraph 5 of the Amended Complaint, CenturyTel admits that it did receive a letter from IDT dated July 19, 2006 but denies that such letter accurately described CenturyTel's legal obligations to port the requested numbers. CenturyTel states that there was a conference call between respective legal counsel on July 21, 2006. CenturyTel denies that there was a full discussion of the issues in that IDT did not disclose that the customers associated with the porting requests (the Subject Customers) were not seeking to change their service to IDT but were actually seeking to change their service to Bresnan. IDT did not disclose this fact in this or any other discussion or correspondence prior to filing its original complaint with the Commission on August 16, 2006. CenturyTel denies that "CenturyTel customers are not able to port numbers from CenturyTel to the provider of their choice." The provider of choice for the Subject Customers is Bresnan. CenturyTel stands ready to port numbers to Bresnan as the new service provider. IDT is not the provider of choice for the Subject Customers. CenturyTel has declined to port the numbers of the Subject Customers to IDT for that reason.

12. CenturyTel denies the allegation contained Paragraph 6 of the amended Complaint that IDT has acted in good faith in this matter. CenturyTel states that IDT's concealment of the fact that the customers associated with the porting requests were not seeking to change their service to IDT but were actually seeking to change their service to Bresnan was an action in bad faith.

13. Concerning the allegations contained in Paragraph 7 of the Amended Complaint, CenturyTel does not dispute that the Commission has jurisdiction over this matter.

14. Concerning the allegations contained in Paragraph 8 of the Amended Complaint, CenturyTel does not dispute that the law does provide for the porting of numbers from the first carrier to the other carrier when a customer switches service from one telecommunications carrier to another. However, CenturyTel submits that IDT is not the “other carrier” that the customer has switched to.

15. Concerning the allegations contained in Paragraph 9 of the Amended Complaint, CenturyTel does not dispute that the 1996 Federal Telecommunications Act (the “Act”) defines Local Number portability as ‘the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.’ However, CenturyTel submits that in this case IDT is again not the other carrier that the customer has switched to. The remainder of Paragraph 9 consists of IDT’s quote from an FCC order and the citation to 47 C.F.R. §52.23(b)(2)(i) both of which have to do with requests for general deployment of local number portability capability. In other words, they require upgrading of local switches so that they support local number portability. CenturyTel asserts that it is fully compliant with these requirements, as LNP capability has been deployed throughout its Montana service territory.

16. Concerning the allegations contained in Paragraph 10 of the Amended Complaint, Montana statutes and the Commission’s rules speak for themselves, although the reference to ARM §38-5-4074 should probably be to §38-5-4071 instead. Centurytel denies that the law requires CenturyTel to port numbers to IDT regardless of who the

customer is seeking to change their local service to. Centurytel's obligation runs to the new service provider. In this case that would be Bresnan.

17. Concerning the allegations contained in Paragraph 11 of the Amended Complaint, CenturyTel agrees that IDT's statement is an appropriate manner in which to apply the law to the facts. As IDT stated:

Thus, when one of CenturyTel's customers chooses to switch his telephone service from CenturyTel to IDT and wants to keep his telephone number, CenturyTel is required to port the number so long as IDT has a presence in the rate center. (emphasis added)

However, there are no customers choosing to switch their telephone service from CenturyTel to IDT, therefore CenturyTel is under no obligation to port numbers to IDT. CenturyTel denies that its actions have violated any state or federal local number portability regulations.

18. Concerning the allegations contained in Paragraph 12 of the Amended Complaint, CenturyTel denies that its actions are based upon questioning the identity of IDT's customers. IDT has no local service customers. CenturyTel was attempting to identify the service provider associated with the Subject Customers. The inquiry was directed to the identity of the local service provider, not the identity of the local service customers. The local service provider with regard to the Subject Customers is Bresnan and not IDT. IDT asserts in Paragraph 12 that it is a "submitting carrier" under 47 C.F.R. §64.1120(a)(2). CenturyTel denies that IDT is a submitting carrier with respect to the Subject Customers. FCC rules define "submitting carrier" as follows:

The term *submitting carrier* is generally any telecommunications carrier that requests on the behalf of a subscriber that the subscriber's telecommunications carrier be changed, and seeks to provide retail services to the end user subscriber. (47 C.F.R. 64.1100(a))

IDT does not seek to provide retail services to the end user Subject Customers.

CenturyTel asserts that it will instead, be Bresnan that provides retail services to the end user Subject Customers. IDT fails to meet the definition of a submitting carrier with regard to the Subject Customers. Also, the FCC rules require that the submitting carrier follow certain procedures to verify that the customer has authorized a change of service provider. (47 C.F.R. §64.1120(a)(1) and (c)) IDT has not alleged that it has followed these requirements. Nor should the Commission assume that IDT has followed the verification requirements. IDT does not have a good track record in this regard. In the last five years the FCC has issued orders in at least 40 different complaint dockets finding that IDT failed to comply with the verification requirements in 47 C.F.R. §64.1120.³

³ Docket – IC No. 01-S66115, (DA 02-807), Order Released April 10, 2002; Docket – IC No. 02-S67828, (DA 02-2645), Order Released October 17, 2002; Docket – IC No. 02-S79735, (DA 02-3029), Order Released November 7, 2002; Docket – IC No. 02-S77154, (DA 02-3244), Order Released November 26, 2002; Docket – IC No. 02-S79627, (DA-02-3444), Order Released December 13, 2002; Docket – IC No. 02-S81208, (DA 03-249), Order Released January 30, 2003; Docket – IC No. 02-S81739, (DA 03-236), Order Released January 31, 2003; Docket – IC No. 02-S81667, (DA 03-504), Order Released February 26, 2003; Docket – IC No. 02-S80987, (DA 03-1037), Order Released March 31, 2003; Docket – IC No. 02-S73649, (DA 03-1239), Order Released April 28, 2003; Docket – IC No. 02-A0011042, (DA 03-1401), Order Released April 29, 2003; Docket – IC No. 02-S80713, (DA 03-1397), Order Released April 29, 2003; Docket – IC No. 02-S81658, (DA 03-1396), Order Released April 29, 2003; Docket – IC No. 03-S82269, (DA 03-1432), Order Released April 30, 2003; Docket – IC No. 02-S80655, (DA 03-1686), Order Released May 15, 2003; Docket – IC No. 01-S64418, (DA 03-1646), Order Released May 15, 2003; Docket – IC No. 03-I0024166, (DA 03-2136), Order Released July 2, 2003; Docket – IC No. 02-S81534, (DA 03-2317), Order Released July 17, 2003; Docket – IC No. 02-B0004398, (DA 03-2414), Order Released July 25, 2003; Docket – IC No. 01-S66094, (DA 03-2540), Order Released July 31, 2003; Docket – IC No. 02-B0004309, (DA 03-3166), Order Released October 14, 2003; Docket – IC No. 03-S000203S, (DA 03-3204), Order Released October 16, 2003; Docket – IC No. 03-S85062, (DA 03-3702), Order Released November 21, 2003; Docket – IC No. 02-S79788, (DA 04-809), Order Released March 30, 2004; Docket – IC No. 03-S85695, (DA 04-1122), Order Released April 28, 2004; Docket – IC No. 02-S76618, (DA 04-1477), Order Released May 26, 2004; Docket – IC No. 03-S84558, (DA 04-1508), Order Released May 28, 2004; Docket – IC No. 02-S80664, (DA 04-1524), Order Released May 27, 2004; Docket – IC No. 02-S77293, (DA 04-1877), Order Released June 28, 2004; Docket – IC Nos. 02-S80733, 02-S81199, 02-S81216, 02-S81366, 02-S82041, (DA 04-1969), Order Released June 30, 2004; Docket – IC No. 02-B0010061, (DA 04-2110), Order Released July 13, 2004; Docket – IC No. 03-I0024166, (DA 04-2657), Order Released August 26, 2004; Docket – IC No. 04-S86302, (DA 04-3078), Order Released September 28, 2004; Docket – IC No. 04-S86295, (DA 04-3930), Order Released December 17, 2004; Docket – IC No. 04-S86295, (DA 05-248), Order Released January 31, 2005; Docket – IC No. 04-S86128, (DA 05-403), Order Released February 15, 2005; Docket – IC No. 04-S88665, (DA 05-791), Order Released March 29,

19. Concerning the allegations contained in Paragraph 13 of the Amended Complaint, CenturyTel denies that it has implemented a preferred carrier freeze, *de fact* or otherwise. CenturyTel customers are free to switch their local service to another local service provider and have their number ported to that other local service provider. The Subject Customers are free to switch their local service to Bresnan and have their number ported to Bresnan.

20. Concerning the allegations contained in Paragraph 14 of the Amended Complaint, CenturyTel denies that it has an obligation to port numbers to IDT regardless of who the customer seeks to change its local service to. CenturyTel denies that requiring competitors to abide by applicable law constitutes denying customers the benefits of competition.

21. Concerning the allegations contained in Paragraph 15 of the Amended Complaint, CenturyTel acknowledges that there was an FCC proceeding involving affiliate companies of CenturyTel of Montana, Inc., which IDT has cited and referred to as the *CenturyTel NAL*. However, CenturyTel denies that the *CenturyTel NAL* has any relevance to this matter now before the Commission. For one thing, the *CenturyTel NAL* involved an affiliate's end office switch that had not yet been upgraded to local number portability capability. For another, the *CenturyTel NAL* did not involve the porting or potential porting of any CenturyTel numbers.

22. Concerning the allegations contained in Paragraph 16 of the Amended Complaint, CenturyTel denies that the *CenturyTel NAL* "arose in the context of wireline-to-wireless porting." The *CenturyTel NAL* in fact involved wireless-to-wireless porting.

2005; Docket - IC No. 04-I0104351S, (DA 05-804), Order Released March 30, 2005; Docket - IC No. 04-S88651, (DA 05-826), Order Released March 30, 2005; Docket - IC No. 04-S88637, (DA 05-958), Order Released April 1, 2005; Docket - IC No. 05-S89028, (DA 05-1755), Order Released June 27, 2005.

That is, it involved the porting of a number from one wireless carrier to another wireless carrier, neither of which were affiliated with CenturyTel. In Paragraph 16 of the Amended Complaint, IDT states “When a subscriber chooses to port his number to IDT ...” CenturyTel denies that there are any customers who have chosen to port their numbers to IDT. IDT further states, “When an IDT customers cannot get his number ported ...” CenturyTel denies that there are any IDT customers who cannot get their number ported. IDT has no local service customers. IDT does not provide local service in CenturyTel’s service area. None of the Subject Customers have requested to switch their local service to IDT or have their number ported to IDT.

23. Concerning the allegations contained in Paragraph 17 of the Amended Complaint, CenturyTel acknowledges that IDT has registered as a telecommunications carrier in Montana. However, CenturyTel denies that IDT is in fact providing local exchange services in CenturyTel’s service territory. CenturyTel notes that Bresnan has also registered as a telecommunications carrier in Montana. CenturyTel asserts that Bresnan, unlike IDT is providing local exchange service in CenturyTel’s service territory. CenturyTel acknowledges that CenturyTel and IDT have executed an interconnection agreement that provides for the porting of local numbers to the extent that IDT is functioning as a local exchange carrier and is therefore providing local service to end user customers.

24. Concerning the allegations contained in Paragraph 18 of the Amended Complaint, CenturyTel acknowledges that it is CenturyTel’s position that IDT is entitled to local number porting only to the extent that it is functioning as a local exchange carrier providing local service to end users in CenturyTel’s service territory. This is the case

under both the interconnection agreement between the parties as well as the provisions of the 1996 Federal Telecommunications Act. In the Parties' interconnection agreement IDT represented that it entered such agreement "in its capacity as a certified Provider of local two-way wireline dial-tone service,"⁴ CenturyTel denies that IDT is functioning, or would function as a provider of "local two-way wireline dial-tone service" to the Subject Customers. The interconnection agreement also states that "the parties will extend certain arrangements to each other within each area within which they both operate in the state ..."⁵ CenturyTel denies that there is any area in which both parties operate. CenturyTel asserts that IDT does not have any plant or facilities located within CenturyTel's service territory for the provisioning of "local two-way wireline dial-tone service." CenturyTel denies that its actions constitute a breach of the parties' interconnection agreement.

25. Concerning the allegations contained in Paragraph 19 of the Amended Complaint, CenturyTel denies that there is any conflict between provisions of the parties' interconnection agreement and applicable statutes concerning CenturyTel's obligation to port numbers. IDT accurately describes CenturyTel's statutory obligation to port in Paragraph 22 of the Amended Complaint when IDT states:

It is IDT's status as a "telecommunications carrier"and its provision of local exchange services that determines its entitlement to LNP processing under the Act, not the business of its end users. (emphasis added, footnote deleted)

⁴ Opening paragraph of the Traffic Exchange Agreement Between CenturyTel of Montana, Inc. and IDT America, Corp.

⁵ Article I, Scope and Intent of Agreement, Traffic Exchange Agreement Between CenturyTel of Montana, Inc. and IDT America, Corp.

Both the parties' interconnection agreement and the Act require that IDT be providing local exchange services before it is entitled to have numbers ported to IDT. CenturyTel denies that IDT would be providing local exchange services to the Subject Customers and therefore CenturyTel is not obligated to port the numbers to IDT under either the parties' interconnection agreement or the Act.

26. Concerning the allegations contained in Paragraph 20 of the Amended Complaint, CenturyTel denies that its actions are based upon questioning the identity of IDT's end user customers. IDT has no local service customers. CenturyTel was attempting to identify the service provider associated with the Subject Customers. The inquiry was directed to the identity of the local service provider, not the identity of the local service customers. The local service provider with regard to the Subject Customers is Bresnan and not IDT.

27. Concerning the allegations contained in Paragraph 21 of the Amended Complaint, CenturyTel denies that the Subject Customers are IDT end user customers. CenturyTel asserts that IDT does not provide local exchange service to the Subject Customers or any other end user customers in CenturyTel's service territory.

28. Concerning the allegations contained in Paragraph 22 of the Amended Complaint, CenturyTel for the most part agrees with IDT when IDT states therein that:

It is IDT's status as a "telecommunications carrier"and its provision of local exchange services that determines its entitlement to LNP processing under the Act, not the business of its end users. (emphasis added, footnote deleted)

CenturyTel denies that IDT would be providing local exchange services to the Subject Customers and therefore CenturyTel is not obligated to port the numbers to IDT under either the parties' interconnection agreement or the Act. CenturyTel also denies that

IDT has any end user customers. With respect to matters involved in the complaint, IDT sells services only on the wholesale level. Its services do not “end” with its wholesale customer because they are in turn resold at retail to the true end users.

29. Concerning the allegations contained in Paragraph 23 of the Amended Complaint, CenturyTel denies IDT’s allegation that Bresnan is not a telecommunications carrier. Bresnan has registered with the Commission as a telecommunications carrier. Consistent with its status as a telecommunications carrier, Bresnan has previously requested an interconnection agreement with CenturyTel (see Exhibit A attached to this Response). CenturyTel denies that the FCC has made a determination that interconnected VoIP service providers are not telecommunications carriers. CenturyTel denies that Bresnan is an end user of IDT’s services. Those services do not “end” with Bresnan. CenturyTel asserts that Bresnan takes those services as an input to its own local exchange service and sells the package at retail to the true end user customers, such as the Subject Customers.

30. Concerning the allegations contained in Paragraph 24 of the Amended Complaint, CenturyTel denies that it has precluded competition in its service territory. CenturyTel stands ready to port local numbers to Bresnan, the provider of the competing local exchange service that is sought by the subject customers.

31. Concerning the allegations contained in Paragraph 25 of the Amended Complaint, CenturyTel denies that the state commission decisions cited by IDT represent

settled law. Other state commissions have reached the opposite conclusion.⁶ The unsettled nature of the law in this area has been framed in a declaratory ruling proceeding brought before and still pending at the FCC.⁷

32. Concerning the allegations contained in Paragraph 26 of the Amended Complaint, CenturyTel states that it has not sought an exemption under Section 251(f)(2) of the Act for the simple reason that it does not seek to be exempt from number porting obligations. As IDT notes in Paragraph 26, CenturyTel has ported numbers to various providers of competitive local exchange services. CenturyTel denies that its actions in this regard are in any way discriminatory. When CenturyTel customers have sought to switch service to another provider of local services, CenturyTel has always been prepared to port numbers *to that other local service provider*. In the case at hand, to the extent that there are CenturyTel customers that seek to change their local service to Bresnan's local service offering, CenturyTel is prepared to port numbers to Bresnan. If there were ever CenturyTel customers that sought to change their local service to IDT, then CenturyTel would port numbers to IDT.

⁶ *In the Matter of Sprint Communications Company L.P., Overland Park, Kansas, Petition for arbitration under the Telecommunications Act, of certain issues associated with the proposed interconnection agreement between Sprint and Southeast Nebraska Telephone Company, Falls City, Nebraska PSC, Application No. C-3429 (September 13, 2005). Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Horry Telephone Cooperative, Inc. Concerning Interconnection and Resale under Telecommunications Act of 1996, PSC South Carolina, docket No. 2005-188-C – Order No. 2006-2 (Jan. 11, 2006); and Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Farmers Telephone Cooperative, Inc., Home Telephone Co., Inc. PBT Telecom, Inc., and Hargray Telephone Company, Concerning Interconnection and Resale under the Telecommunications Act of 1996, PSC South Carolina, Docket No. 2005-67-C- Order No. 2005-544 (October 7, 2005).*

⁷ *In the Matter of Petition of Time Warner Cable for Declaratory Ruling That Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers, CITE (filed March 1, 2006).*

33. Concerning the allegations contained in Paragraph 27 of the Amended Complaint, CenturyTel denies that its actions are a violation of law or that its interpretation of the parties' interconnection agreement is incorrect.

34. Concerning the allegations contained in Paragraph 28 of the Amended Complaint, CenturyTel acknowledges that IDT has sought expedited complaint procedure in this case.

35. Concerning the allegations contained in Paragraph 29 of the Amended Complaint, CenturyTel denies that IDT acted in good faith in the period leading up to filing of the Complaint and Petition for Expedited Complaint Proceeding. CenturyTel denies that there was a full discussion of the issues in that IDT did not disclose that the customers associated with the porting requests (the subject Customers) were not seeking to change their service to IDT but were actually seeking to change their service to Bresnan. IDT did not disclose this fact in any discussions or correspondence prior to filing its original complaint with the Commission on August 16, 2006. CenturyTel asserts that such concealment of pertinent facts is not consistent with a good faith attempt by IDT to resolve its disagreement with CenturyTel prior to filing the complaint.

36. Concerning the allegations contained in Paragraph 30 of the Amended Complaint, CenturyTel denies that the amended Complaint includes a description of all of the pertinent facts or that it accurately states the position of CenturyTel with respect to the issues.

37. Concerning the allegations contained in Paragraph 31 of the Amended Complaint, CenturyTel denies that the July 19, 2006 letter was sufficient notice under

MCA §69-3-830 or that the August 11, 2006 was issued more than 10 days before IDT filed its original complaint in this matter.

38. Concerning the allegations contained in the second Paragraph of the Amended Complaint that IDT labeled Number 29, CenturyTel acknowledges that IDT did mail a copy of the Amended Complaint to two generic CenturyTel corporate departments.

39. Concerning the allegations in Paragraphs 32, 33, 34 and 35 of the amended Complaint CenturyTel acknowledges that IDT filed a Complaint and Petition for Expedited Proceeding and requested various actions of the Commission. CenturyTel denies that the relief requested in Paragraph 33 and 35 is justified or should be granted.

Respectfully submitted this 18th day of September, 2006.

CENTURYTEL OF MONTANA, Inc.

By: _____

Calvin K. Simshaw
Assoc. Gen. Counsel

805 Broadway
Vancouver, WA 98660
(360) 905-5958
(360) 905-5953 Fax
calvin.simshaw@centurytel.com

BRESNAN
Communications

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Purchase, NY 10577-2596
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Fax: 914.641.3301
www.bresnan.com

AUGUST 1, 2006

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

Jackie Phillips
Regional Director-Carrier Relations
CenturyTel
805 Broadway
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Tel: (360) 905-6985
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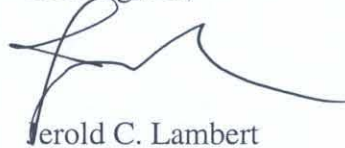
Re: Request for Section 252(i) Adoption to Establish an Interconnection Agreement between Bresnan Digital Services, LLC and CenturyTel of Montana, Inc. for the State of Montana

Dear Ms. Phillips:

Bresnan Digital Services, LLC parent of Bresnan Broadband of Montana, LLC ("Bresnan"), by its attorneys, hereby seeks to exercise its rights under Section 252(i) of the Communications Act of 1934, as amended ("Act"), and Section 51.809 of the Federal Communications Commission's rules^{1/} to adopt the interconnection agreement between CenturyTel of Montana, Inc. ("CenturyTel") and IDT America, Corp. filed with the Montana Public Service Commission ("Commission") on April 20, 2006 ("Agreement").

Attachment 1 to this letter contains the information necessary for processing Bresnan's adoption of the Agreement. Please provide us with the necessary documentation for review and signature within ten (10) days. If you have any questions regarding this request, please contact us. We appreciate your prompt attention to this matter.

Best regards,



Jerold C. Lambert
Associate General Counsel

cc: Leonard Higgins
Kathy Kirchner
Robert Bresnan
Walter Eggers

^{1/} 47 U.S.C. § 252(i); 47 C.F.R. § 51.809.

Attachment 1

Section 252(i) Adoption Information for Bresnan Digital Services, LLC

Legal name: Bresnan Digital Services, LLC

Corporate information: Bresnan Digital Services, LLC

Principal Place of Business: 1 Manhattanville Road
Purchase, NY 10577

Contacts for notices: Jerry Lambert
1 Manhattanville Road
Purchase, NY 10577
(914) 641-3338
(914) 641-3438
jlambert@bresnan.com

with a copy to: Kathy Kirchner
Bresnan Communications
1860 Monad Road
Billings, MT 59102

CERTIFICATE OF SERVICE

I certify that I have this day served CenturyTel's Response to Amended Complaint and Petition for Expedited Complaint Proceeding - Docket No. D2006.8.121, by sending a copy via Email and Overnight mail, unless otherwise noted, to the parties as shown below:

Kate Whitney
Public Service Commission
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Helena, MT 59620-2601
kwhitney@mt.gov

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1 **VIA US MAIL**

2
3 Thor A Nelson
4 Holland & Hart LLP
5 8390 E Crescent Parkway, Suite 400
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7 **VIA EMAIL ONLY**

8 Tim Sweeney
9 tsweeney@mt.gov

10 Gary Duncan
11 gduncan@mt.gov

12 **Courtesy Copy:**
13 **VIA EMAIL AND US MAIL**

14 Jerold Lambert
15 Bresnan Communications
16 One Manhattanville Road
17 Purchase, NY 10577-2596
18 jlambert@bresnan.com

19
20 Dated this 18th day of September, 2006

21
22 By: _____
23 Rhonda Parisio
24
25
26

Attachment 3

MINTZ LEVIN

Elana Shapochnikov | 212 692 6275 | eshapochnikov@mintz.com

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RECEIVED BY
2006 AUG 31 P 4: 39
PUBLIC SERVICE
COMMISSION

August 31, 2006

Kate Whitney
Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

RE: Petition Seeking Interim Order

Dear Ms. Whitney:

Please find enclosed for filing with the Commission the Petition Seeking Interim Order on behalf of IDT America, Corp.

This Petition is being mailed to the parties identified on the Certificate of Service enclosed. If you have any questions, please contact me at (212) 692-6275.

Respectfully submitted,


Elana Shapochnikov

Enclosures
cc: Service List

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

BOSTON | WASHINGTON | NEW YORK | STAMFORD | LOS ANGELES | PALO ALTO | SAN DIEGO | LONDON

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF CENTURYTEL OF	)	UTILITY DIVISION
MONTANA, INC., Petition by IDT America,)	
Corp. Requesting the Commission	)	Docket No. _____
To Order CenturyTel to Honor IDT's Requests for)	
Local Number Portability Pending the Outcome of)	
IDT's Complaint Against CenturyTel)	

PETITION SEEKING INTERIM ORDER

1. IDT America, Corp. ("IDT") files this Petition seeking immediate relief in the form of an Interim Order from the Public Service Commission of the state of Montana ("Commission") requiring CenturyTel of Montana, Inc. ("CenturyTel") to honor all local number portability requests made by CenturyTel customers during the pendency of the Expedited Docket No. D2006.8.121.

PARTIES

2. IDT is a registered telecommunications provider in Montana authorized to provide facilities-based and resale local exchange services, resale long distance service, and commercial mobile radio service in Montana.

3. CenturyTel is a registered telecommunications provider in Montana and a "rural telephone company," as that term is defined in the Telecommunications Act of 1996 ("Act" or "1996 Act").^{1/} CenturyTel provides facilities-based local exchange services in the Flathead Valley of Montana, including Kalispell, Montana.

^{1/} 47 U.S.C. § 153.

BACKGROUND

4. CenturyTel and IDT entered into an Interconnection Agreement (“Agreement”) on March 31, 2006. The Commission approved the Agreement by order dated July 11, 2006. On or about July 11th and 12th, IDT submitted several requests to port the local telephone numbers of consumers that have elected to switch from CenturyTel to Bresnan Digital Services, LLC’s (“Bresnan”) Voice over Internet Protocol (“VoIP”) service offering. Similar to the services purchased by many other end user business customers, IDT provides Bresnan, among other things, access to numbers and to the public switched telephone network (“PSTN”). CenturyTel is rejecting all of IDT’s LNP requests related to the services provided by IDT to Bresnan. After several unsuccessful attempts by IDT to resolve the matter, on July 17, 2006, IDT received a letter from CenturyTel stating that CenturyTel would not honor IDT’s LNP requests because CenturyTel had “reason to believe” that the LNP requests “were not related to IDT’s end users.” (“CenturyTel Letter”).

5. On July 19, 2006, IDT informed CenturyTel in writing of its legal obligation to port the numbers requested to be switched by CenturyTel customers and provided notice that if CenturyTel continued to refuse to port numbers, IDT would pursue all legal remedies available to it. Those remedies included the filing of IDT’s Amended Complaint and Petition for Expedited Complaint Proceeding. On July 20, 2006, in a final attempt to resolve this matter without involving the Commission, IDT called CenturyTel’s counsel to discuss the issue and reiterate that IDT would initiate regulatory proceedings if CenturyTel continued to violate its duty to port. To date, CenturyTel continues to refuse to execute the requested ports for its Montana customers. As a result of CenturyTel’s refusal to honor the requests of its customers, CenturyTel’s customers are being denied the right to select the service provider of their choice in

direct violation of the Telecommunications Act of 1996 (“Act”), the Federal Communications Commission’s (“FCC”) rules, and the Montana Telecommunications Act (“Montana Act”).^{2/} CenturyTel is in violation of its statutory duty to port numbers and has breached its Agreement with IDT to provide local number portability in response to a porting request.

6. On August 16, 2006, IDT filed a Complaint and Petition for Expedited Complaint with the Commission. On August 22, 2006, as part of its Work Session, the Commission appointed Tim Sweeney as hearing examiner to preside over IDT’s Complaint. Also on August 22, 2006, IDT filed an Amended Complaint and Petition for Expedited Relief against CenturyTel (“Amended Complaint”). IDT hereby incorporates all of the arguments raised in its Amended Complaint into the present Petition. (Exhibit A).

ARGUMENT

I. CONSUMERS ARE BEING DENIED THEIR RIGHTS TO OBTAIN THEIR CHOICE OF SERVICE PROVIDER WHILE KEEPING THEIR NUMBER

A. CenturyTel’s Refusal to Port is Contrary to State and Federal Policies Promoting Competition and Advancement of New Technologies.

7. The Act provides “for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.”^{3/}

8. IDT seeks an Interim Order from the Commission to provide consumers the service they are entitled to during the pendency of the hearing in Docket No. D2006.8.121. IDT has attempted in good faith to encourage CenturyTel to fulfill its obligations to its consumers and

^{2/} 47 U.S.C. 251 *et. seq.*; Montana Telecommunications Act, Mont. Code Ann. §§ 69-3-801 to 870 (2005).

^{3/} S. CONF. REP. NO. 104-230, at 1 (1996).

port numbers pending the outcome of IDT's complaint proceeding. On August 23, 2006, IDT counsel contacted counsel for CenturyTel, again requesting CenturyTel to act in the public interest and execute the requests to port its customers' numbers to IDT. By letter dated August 30, 2006, IDT reiterated its request. (Exhibit B).

9. Grant of IDT's request for an Interim Order is in the public interest. It will permit customers to exercise their right to select the service provider of their choice while retaining their existing telephone number. Competition is about providing consumers a choice in the marketplace. CenturyTel cannot be permitted to rob Montana consumers of their right to choose by holding the customer's (not CenturyTel's) telephone number hostage.^{4/} These customers have decided Bresnan's VoIP service is a better option and they are entitled to make that choice.^{5/} IDT and CenturyTel are obligated under the law to fulfill requests to port customer numbers.^{6/}

^{4/} The "Commission has characterized telephone numbers as a public resource that are not the property of the carriers. Further, the Commission has noted that 'carriers do not 'own' codes or numbers, but rather administer their distribution for the efficient operation of the public switched telephone network.'" *Toll Free Service Access Codes*, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-155, 12 FCC Rcd. 11162, ¶ 30 (rel. April 11, 1997) (citing *Toll Free Service Access Codes, Notice of Proposed Rulemaking*, CC Docket No. 95-155, 11 FCC Rcd. 2588 ¶ 44 (rel. October 5, 1995) ("*NANP Order*"). "These numbers are a public resource, and are not the property of the carriers. Access to numbering resources is critical to entities desiring to participate in the telecommunications industry. Numbers are the means by which businesses and consumers gain access to, and reap the benefits of, the public switched telephone network. These benefits cannot be fully realized, however, unless numbering resources of the NANP are administered in a fair and efficient manner that makes them available to all parties desiring to provide telecommunications services." *NANP Order*, ¶ 4.

^{5/} *Id.*

^{6/} LNP is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k). Any "wireline carrier that is certified (or has applied for certification) to provide local exchange service in any state ... must be permitted to make a request for deployment of number portability." 47 C.F.R. § 52.23(b)(2)(i). "All facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code." Mont. Admin. Register § 38-5-4074. Adopting the 1996 Act's definition of number portability, the Montana Administrative Code defines "number portability" as "the ability of users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another." Mont. Admin. Register § 38-5-4002(16). In addition, each local exchange carrier must "perform the duties enumerated in 47 USC 251(b)." Mont. Code Ann. § 69-3-834.

10. Specifically, as the FCC stated in its number portability implementing rules order, “Section 251(b)(2) removes a significant barrier to competition by ensuring that consumers can change carriers without forfeiting their existing telephone numbers. The Commission has noted that the absence of number portability ‘likely would deter entry by competitive providers of local service because of the value customers place on retaining their telephone numbers. ...

The ability of end users to retain their telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of telecommunications services they can choose to purchase. Number portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers. The resulting competition will benefit all users of telecommunications services. Indeed, competition should foster lower local telephone prices and, consequently, stimulate demand for telecommunications services and increase economic growth.”⁷¹

11. Montana consumers should not have to wait for IDT’s complaint to be resolved in order to take advantage of Bresnan’s VoIP service. Allowing CenturyTel to employ the very practices the Act and the FCC’s rules were designed to prevent strips consumers of the rights and benefits of competition that the Act and the rules were designed to protect. As the Commission is aware, rulings on expedited complaints can take upwards of four (4) months and several CenturyTel customers have been waiting to port their number since mid July 2006.

12. During the Commission’s August 22, 2006 Work Session Meeting, Commission Staff indicated that they received at least five (5) customer complaints (three from Kalispell and two from Columbia Falls) regarding CenturyTel’s failure to port their numbers to IDT for purposes of receiving service from Bresnan. Staff also indicated that all five customers stated that they are awaiting the outcome of IDT’s complaint against CenturyTel and that all five still want to switch their service to Bresnan and retain their numbers. Thus, CenturyTel customers

⁷¹ *Id.*

are being harmed by CenturyTel's flagrant disregard for its legal obligations to port customers' numbers upon request by a carrier, in this case, IDT. The porting laws were designed to protect consumers. Thus, an Interim Order requiring CenturyTel to honor all requests to port numbers pending the outcome of the Proceeding is in the public interest.

B. The Commission is Obligated to Ensure Montana Consumers are Not Being Denied Their Rights to Have Their Telephone Numbers Ported.

13. The Telecommunications Act of 1996 establishes "a pro-competitive, deregulatory national policy framework" that is intended to "promote competition and reduce regulation . . . to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."^{8/} The statute imposes obligations and responsibilities on all telecommunications carriers, particularly incumbent local exchange carriers, that are designed to open monopoly telecommunications markets to competitive entry and to promote competition in markets that already are open to new competitors.^{9/}

14. Number portability is one of the obligations that Congress imposed on all local exchange carriers, both incumbents and new entrants, in order to promote the pro-competitive, deregulatory markets it envisioned. Congress has recognized that number portability will lower barriers to entry and promote competition in the local exchange marketplace.^{10/}

^{8/} First Report and Order ¶ 2 (citing, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 1 (1996)).

^{9/} *Id.* (According to Senator Larry Pressler, "[t]he more open access takes hold, the less other government intervention is needed to protect competition. Open access is the principle establishing a fair method to move local phone monopolies and the oligopolistic long distance industry into full competition with one another." 141 Cong. Rec. S7889 (daily ed. June 7, 1995) (statement of Sen. Pressler). Senator Ernest F. Hollings has said, "[c]ompetition is the best regulator of the marketplace. But until that competition exists, until the markets are opened, monopoly-provided services must not be able to exploit the monopoly power to the consumers' disadvantage. Competitors are ready and willing to enter the new markets as soon as they are opened." *Id.* at S7984 (statement of Sen. Hollings).

^{10/} *Id.*

15. Section 251(b)(2) of the 1996 Act requires that all local exchange carriers provide number portability, to the extent technically feasible, in accordance with the requirements prescribed by the FCC. Local Number Portability is defined as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”^{11/} Pursuant to FCC rules, “any wireline carrier that is certified (or has applied for certification) to provide local exchange service in any state ... *must* be permitted to make a request for deployment of number portability.”^{12/} (Emphasis added). The Commission has an affirmative responsibility under the Act to ensure LECs in Montana comply with the FCC’s number portability rules.^{13/}

16. The federal number portability obligations are reinforced further by the Montana Act.^{14/} In an effort to promote competition and advance new technologies pursuant to the Montana Act, the Commission requires that “[a]ll facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code.”^{15/} Adopting the 1996 Act’s definition of number portability, the Montana

^{11/} 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k). Notably, the definition of LNP contained in Appendix C § 1.58 of the Agreement is identical to the definitions of LNP in the Act and FCC rules.

^{12/} 47 C.F.R. § 52.23(b)(2)(i).

^{13/} “We further conclude that the Commission’s regulations under section 251 are binding on the states, even with respect to intrastate issues. Section 252 provides that the agreements state commissions arbitrate must comply with the Commission’s regulations established pursuant to section 251. In addition, section 253 requires the Commission to preempt state or local regulations or requirements that “prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.” As discussed above, section 261(c) provides further support for the conclusion that states are bound by the regulations the Commission establishes under section 251.” *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd. 15499 ¶ 101 (1996) (“*Local Competition First Report and Order*”) (subsequent history omitted).

^{14/} Montana Telecommunications Act, Mont. Code Ann. §§ 69-3-801 to 870 (2005).

^{15/} Mont. Admin. Register § 38-5-4074.

Administrative Code defines “number portability” as “the ability of users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.”^{16/} Under this definition, when CenturyTel receives a port request from another telecommunications carrier such as IDT, CenturyTel must port the number expeditiously “without impairment of quality, reliability, or convenience.” It is important to note that when CenturyTel receives a port request from a carrier, that request is initiated by CenturyTel’s own customer that wishes to change service providers while keeping his number.

17. In reviewing Interconnection Agreements, the Commission has long recognized that local number portability was implemented for the benefit of consumers.^{17/} Consumers must, therefore, be able to change carriers while keeping their telephone number as easily as they may change carriers without taking their telephone number with them.^{18/} Carriers may not impose non-porting related restrictions on the porting out process.^{19/}

18. When one of CenturyTel’s customers, therefore, chooses to switch his telephone service from CenturyTel and wants to keep his telephone number, CenturyTel is required to port the number. CenturyTel’s refusal to implement IDT’s port requests is a direct violation of state and federal local number portability regulations. IDT therefore requests that the Commission issue an Interim Order directing CenturyTel to comply with the law and honor all porting requests of its customers pending resolution of IDT’s complaint against CenturyTel.

^{16/} Mont. Admin. Register § 38-5-4002(16).

^{17/} See e.g., *In the Matter of Application of US West Communications, Inc. and 3 Rivers PCS, Inc. Pursuant to Section 252(e) of the Telecommunications Act of 1996 for Approval of their Interconnection Agreement*, Order No. 6041 in PSC Docket No. D97.11.226, service date January 15, 1998.

^{18/} *In the Matter of Telephone Number Portability -Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, 18 FCC Rcd. 20971 ¶ 11(rel. Oct. 7, 2003) (“2003 Wirelees-Wireless Porting Order”).

^{19/} *Id.*

II. THE COMMISSION HAS AUTHORITY TO ISSUE THE RELIEF REQUESTED

19. The Commission not only has the authority, but also the “duty [] to supervise and regulate the operations of public utilities, common carriers, railroads, and other regulated industries.”^{20/} The Commission is “invested with full power of supervision, regulation, and control of such public utilities...”^{21/} Most importantly, the Commission has an affirmative duty to “enforce the provisions of this chapter [3] and report all violations thereof to the attorney general.”^{22/}

20. In addition, “to the other remedies provided by this chapter [Title 69, Chapter 3] for the prevention and punishment of any violation of the provisions thereof and all orders of the commission, the commission may compel compliance with the provisions of this chapter and of the orders of the commission by proceedings in mandamus, by injunction, or by other civil remedies.”^{23/}

21. The Commission also has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it.^{24/} The term “public utility” includes a telecommunications service provider such as CenturyTel.^{25/}

22. Every “public utility is also required to furnish reasonably adequate service and facilities.”^{26/} And, every public utility is required to provide local number portability.^{27/} By

^{20/} Mont. Code Ann. § 69-1-102.

^{21/} *Id.*

^{22/} Mont. Code Ann. §69-3-110(1).

^{23/} Mont. Code Ann. §69-3-110(5).

^{24/} Mont. Code Ann. § 69-3-103

^{25/} Mont. Code Ann. § 69-3-101(1)(f)

^{26/} Mont. Code Ann. § 69-3-201.

failing to provide local number portability for all of its requesting customers, CenturyTel is not offering adequate services in compliance with the Montana telecommunications laws. The Commission has found that “[a]ny limitation or restriction imposed on consumers by a public utility raises a question of adequacy of service” and that “the PSC has the power and authority to hear and decide such matters.”^{28/} In addition, the commission “may issue an order to provide service to a residential consumer pending a hearing on a complaint by such consumer or by the consumer counsel on behalf of such consumer against a public utility.”^{29/} Accordingly, the Commission has authority to issue an order requiring CenturyTel, a public utility, to honor the porting requests of its customers pending resolution of IDT’s complaint against CenturyTel.

23. Indeed, failure by this Commission to enforce number portability rights for CenturyTel consumers is tantamount to a *de facto* waiver of CenturyTel’s § 251(b) obligation to provide local number portability absent an application for such a waiver under § 251(f)(2) of the 1996 Act and § 69-3-834(5) of the Mont. Code. Ann. Section 251(f)(2) of the 1996 Act contemplates that a carrier such as CenturyTel may only be excused from market opening requirements such as number portability, by petitioning the Commission for a suspension or modification of its § 251(b) obligations.^{30/} As stated in IDT’s Amended Complaint, CenturyTel

^{27/} Mont. Admin. Register § 38-5-4074 (“All facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code”). In addition, Mont. Code Ann. § 69-3-209 provides that if “any public utility violates any provision of this chapter [3], does any act herein prohibited, or fails or refuses to perform any duty enjoined upon it, fails to place in operation any rate or joint rate, or fails, neglects, or refuses to obey any lawful requirement or order made by the commission or any court, then for every such violation, failure, or refusal the public utility is subject to the penalty prescribed by 69-3-206.”

^{28/} See, *In the Matter of Lacasa Grande Estates Water Company*, Complaint by Jerome Woodward, et al., Concerning Watering Restrictions, Order No. 5559 in PSC Docket No. 91.5.19, service date June 13, 1991.

^{29/} Mont. Code. Ann. § 69-3-321.

^{30/} 47 U.S.C. § 251(f) (2) (providing that a local exchange carrier with less than two percent of the Nation’s subscriber lines may “petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c)”).

has made no such petition.^{31/} On the contrary, CenturyTel processes the porting requests of other carriers pursuant to its Montana Interconnection Agreements with Verizon Wireless, AirTel Wireless, LLC, and Granite Telecommunications, LLC. CenturyTel, in fact, appeared as a party during several § 251(f) suspension proceedings before the Commission where CenturyTel represented that “it is implementing the number portability requirements of [§ 251(b)(2)] and the FCC’s Number Portability Order.”^{32/}

24. The Montana Commission has also noted that § 252(e)(3) and § 253 of the 1996 Act empower state commissions to enforce their respective state laws.^{33/} Specifically, § 252(e)(3) provides:

“Preservation of Authority.—Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.”^{34/}

Section 253 further provides:

“State Regulatory Authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.”^{35/}

As stated above, the United States Congress enacted the 1996 Act to encourage competition in the telecommunications industry. Congress gave responsibility for much of the implementation

^{31/} IDT Amended Complaint ¶ 26.

^{32/} See e.g., Order No. 6558b in PSC Docket No. D2004.3.39, service date October 13, 2004, ¶ 3 note 2 (“CenturyTel of Montana initially appeared in this proceeding through the Montana Telecommunications Association, but was dismissed from the docket by separate order based on its representation that it is implementing the number portability requirements of 47 U.S.C. § 251(b)(2) and the FCC’s Number Portability Order”).

^{33/} See, *In the Matter of Petition of Dieca Communications, Inc., d/b/a Covad Communications Company for Arbitration of an Interconnection Agreement with Qwest Corporation*, Order No. 6647a in PSC Docket No. D2005.4.51, service date February 3, 2006.

^{34/} 47 U.S.C. § 252(e)(3).

^{35/} 47 U.S.C. § 253(b).

of the 1996 Act to the states, to be handled by the state agency with regulatory control over telecommunications carriers.^{36/} The Montana Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this proceeding pursuant to Title 69, Chapter 3 of the Mont. Code Ann.

IDT'S STATEMENT FOR REQUESTED RELIEF

25. Pursuant to Mont. Code Ann. §§ 69-3-101, 69-3-102, 69-3-103, 69-3-110, 69-3-201, 69-3-321, and, Mont. Admin. Register §§ 38.2.1201- 38-12-1203, IDT respectfully Petitions the Commission to issue relief to CenturyTel consumers in the form of an Interim Order requiring CenturyTel to comply with the law and honor all local number portability requests made by CenturyTel customers as submitted by IDT pending a ruling on IDT's Complaint against CenturyTel in Docket No. D2006.8.121 and grant to IDT any and all other relief to which it may be entitled.

26. This Petition includes a description of the facts, including relevant documentation, of the issues and the position of IDT with respect to those issues.

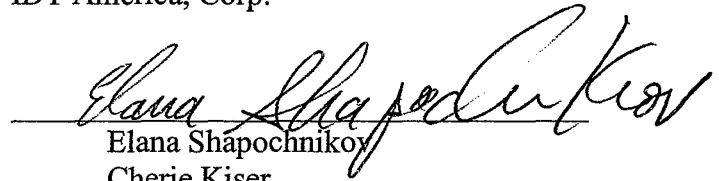
27. As noted on the attached Certificate of Service, IDT has provided a copy of this Petition to CenturyTel and the Montana Consumer Counsel by e-mail and overnight mail on the date the Commission received this Petition.

28. IDT respectfully requests that the Commission, after an expedited hearing on this Petition, issue an Order requiring CenturyTel to honor the porting requests of its customers seeking to switch services to Bresnan through IDT pending resolution of IDT's complaint against CenturyTel.

^{36/} See generally, the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (amending scattered sections of the Communications Act of 1934, 47 U.S.C. §§ 151, et seq.).

DATED this 31st day of August, 2006.

IDT America, Corp.



Elana Shapochnikoy

Cherie Kiser

Mintz Levin Cohn Ferris Glovsky
and Popeo P.C.

701 Pennsylvania Avenue, N.W.

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(add attorney)

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Kenneth M. Kaplan

IDT Corporation

520 Broad Street

Newark, New Jersey 07102

(973) 438-3063

WDC 390103v.2

WDC 388901v.4

Certificate of Service

This is to certify that on August 31, 2006, a true and correct copy of the foregoing **Petition Seeking Interim Order** was served upon all parties by sending a copy by U.S. Mail, unless otherwise noted to the parties as shown below:

VIA HAND DELIVERY

Kate Whitney (original plus 10)
Utility Division Administrator
Montana Public Service Commission
1701 Prospect Avenue
Helena MT 59620-2601

VIA OVERNIGHT MAIL

Kenneth M. Kaplan
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Newark, New Jersey 07102

Tim Sweeney
Montana Public Service Commission
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Helena MT 59620-2601

Gary Duncan
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VIA OVERNIGHT MAIL

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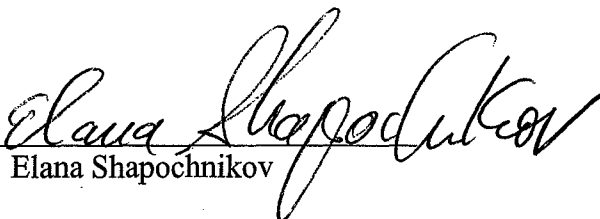

Elana Shapochnikov

EXHIBIT A



August 21, 2006

Kate Whitney
Public Service Commission
1701 Prospect Avenue
P. O. Box 202601
Helena, MT 59620-2601

Re: Amended Complaint And Petition For Expedited Complaint Proceeding
on behalf of IDT America, Corp.

Dear Ms. Whitney:

Please find enclosed for filing with the Commission the Amended Complaint and Petition for Expedited Complaint Proceeding of IDT America, Corp. against CenturyTel of Montana, Inc.

This Amended Complaint and Petition is being mailed to the parties identified on the Certificate of Service enclosed. If you have any questions, please contact me at (406) 252-2166.

Very truly yours,

Donald W. Quander
of Holland & Hart LLP

DWQ:asf
Enclosures
cc: Service List

3595221_1.DOC

**DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA**

IN THE MATTER OF CENTURYTEL OF	)	UTILITY DIVISION
MONTANA, INC., Complaint by IDT America,)	
Corp. Pertaining to CenturyTel's Violation of)	
State and Federal Regulations and Breach of	)	Docket No. _____
Interconnection Agreement)	

CERTIFICATE OF SERVICE

I hereby certify that I have caused copies of the Amended Complaint And
Petition For Expedited Complaint Proceeding on behalf of IDT America, Corp. to be
served by first class mail, postage prepaid, on this date to the parties as shown below:

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Respectfully submitted this 21st day of August, 2006.

IDT America, Corp.

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DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF CENTURYTEL OF	)	UTILITY DIVISION
MONTANA, INC., Complaint by IDT America,)	
Corp. Pertaining to CenturyTel's Violation of	)	Docket No. _____
State and Federal Regulations and Breach of)	
Interconnection Agreement)	

AMENDED COMPLAINT AND PETITION FOR EXPEDITED COMPLAINT PROCEEDING

1. IDT America, Corp. ("IDT") files this Amended Complaint^{1/} and Petition for Expedited Complaint Proceeding with the Public Service Commission of the state of Montana ("Commission") against CenturyTel of Montana, Inc. ("CenturyTel") based on CenturyTel's continuing and willful violations of state and federal laws pertaining to local number portability ("LNP") and breach of its Interconnection Agreement dated March 31, 2006 ("Agreement") with IDT in Montana. This Complaint and Petition for Expedited Complaint Proceeding is being filed pursuant to Mont. Code Ann. § 69-3-830. Attached as Exhibit A is IDT's Expedited Complaint Statement setting forth the issues presented for the Commission's review.

PARTIES

2. IDT is a registered telecommunications provider in Montana authorized to provide facilities-based and resale local exchange services, resale long distance service, and commercial mobile radio service in Montana.

^{1/} Mont. Admin. Register § 38-5-4074.

3. CenturyTel is a registered telecommunications provider in Montana and a “rural telephone company,” as that term is defined in the Telecommunications Act of 1996 (“Act”).^{2/} CenturyTel provides facilities-based local exchange services in the Flathead Valley of Montana, including Kalispell, Montana.

BACKGROUND OF COMPLAINT

4. CenturyTel and IDT entered into the Agreement on March 31, 2006 (Exhibit B). The Commission approved the Agreement by order dated July 11, 2006 (“*Commission Order*”) (Exhibit C). On or about July 11th and 12th, IDT submitted several requests to port the local telephone numbers of consumers that have elected to switch from CenturyTel to Bresnan Digital Services, LLC’s (“Bresnan”) VoIP offering. IDT serves as Bresnan’s LEC for purposes of, among other things, porting numbers and providing access to the public switch telephone network (“PSTN”). These services are similar to those purchased by other end user business customers such as AOL. All of IDT’s LNP requests related to the services provided by IDT to Bresnan are being rejected by CenturyTel. After several unsuccessful attempts by IDT to resolve the matter, on July 17, 2006, IDT received a letter from CenturyTel stating that CenturyTel would not honor IDT’s LNP requests because CenturyTel had “reason to believe” that the LNP requests “were not related to IDT’s end users” (“CenturyTel Letter”) (Exhibit D).

5. By letter dated July 19, 2006 (“IDT Notice”) (Exhibit E), IDT informed CenturyTel of its legal obligation to port the requested numbers and provided notice that if CenturyTel continued to refuse to port numbers, IDT would pursue all legal remedies available to it. Those remedies include the filing of this Complaint and Petition for Expedited Complaint

^{2/} 47 U.S.C. § 153.

Proceeding. On July 20, 2006, in a final attempt to resolve this matter without involving the Commission, IDT called CenturyTel's counsel to discuss the issue and reiterate that IDT would initiate regulatory proceedings if CenturyTel continued to violate its duty to port. To date, CenturyTel has refused to execute the requested ports for its Montana customers. As a result of CenturyTel's refusal to honor IDT's LNP requests, CenturyTel's customers are not able to port numbers from CenturyTel to the provider of their choice. CenturyTel is in violation of its statutory duty to port numbers and has breached its Agreement with IDT to provide local number portability in response to a porting request.

6. Although IDT has, in good faith provided CenturyTel with ample opportunity to cure its continued and willful violation of applicable laws and breach of its interconnection agreement, CenturyTel has failed to do so. As a result, by letter dated August 11, 2006, IDT provided a second notice ("IDT Second Notice") to CenturyTel stating that IDT is, in fact, pursuing a petition to initiate an expedited complaint proceeding against CenturyTel with the Public Service Commission of the State of Montana in accordance with Mont. Code Ann. § 69-3-830 (Exhibit F).

COMMISSION'S JURISDICTION OVER COMPLAINT

7. The Commission has jurisdiction over interconnection and exchange access disputes pursuant to Mont. Code Ann. §§ 69-3-831 *et seq.* In addition, the Commission has authority to supervise, regulate and control public utilities.^{3/} CenturyTel is a public utility offering regulated telecommunications services in the State of Montana.^{4/} The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by

^{3/} Mont. Code Ann. § 69-3-102.

^{4/} Mont. Code Ann. § 69-3-101.

the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it.^{5/}

ARGUMENT

I. CENTURYTEL IS DENYING CONSUMERS THEIR RIGHT TO PORT THEIR LOCAL TELEPHONE NUMBERS IN VIOLATION OF STATE AND FEDERAL LAW.

A. CenturyTel's Refusal to Port is Contrary to State and Federal Policies Promoting Competition and Advancement of New Technologies.

8. The Telecommunications Act of 1996 ("Act") provides "for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition."^{6/} In particular, § 251(b) of the Act imposes specific obligations on all local exchange carriers ("LECs") to open their networks to competitors.^{7/} A critical component of that goal is the ability of *consumers* to keep their telephone numbers when switching to a new service provider.^{8/} Congress determined that "the ability to change service providers is only meaningful if a customer can retain his or her local telephone number."^{9/}

9. Section 251(b)(2) of the Act thus requires that all local exchange carriers provide number portability, to the extent technically feasible, in accordance with the requirements

^{5/} Mont. Code Ann. § 69-3-103.

^{6/} S. CONF. REP. NO. 104-230, at 1 (1996).

^{7/} 47 U.S.C. § 251(b).

^{8/} *In re Telephone Number Portability*, First Report and Order & Further Notice of Proposed Rulemaking, 11 FCC Rcd. 8352 ¶ 2 (1996) ("*First Report and Order*") ("Number portability is one of the obligations that Congress imposed on all local exchange carriers, both incumbents and new entrants, in order to promote the pro-competitive, deregulatory markets it envisioned. Congress has recognized that number portability will lower barriers to entry and promote competition in the local exchange marketplace").

^{9/} *Id.* (citing House of Rep. Comm. on Commerce Report on H.R. 1555 at 72 (July 24, 1995) ("*House Report*").

prescribed by the Federal Communications Commission ("FCC"). LNP is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."^{10/} As the FCC stated:

"The ability of end users to retain their telephone numbers when changing service providers gives customers flexibility in the quality, price, and variety of telecommunications services they can choose to purchase. Number portability promotes competition between telecommunications service providers by, among other things, allowing customers to respond to price and service changes without changing their telephone numbers. The resulting competition will benefit all users of telecommunications services. Indeed, competition should foster lower local telephone prices and, consequently, stimulate demand for telecommunications services and increase economic growth."^{11/}

Pursuant to FCC rules, "any wireline carrier that is certified (or has applied for certification) to provide local exchange service in any state ... *must* be permitted to make a request for deployment of number portability."^{12/} (Emphasis added).

10. The Montana Telecommunications Act ("Montana Act")^{13/} shares Congress' pro-competitive policy. In an effort to promote competition and advance new technologies pursuant to the Montana Act, the Commission requires that "[a]ll facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code."^{14/} Adopting the 1996 Act's definition of number portability, the Montana

^{10/} 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k). Notably, the definition of LNP contained in Appendix C § 1.58 of the Agreement is identical to the definitions of LNP in the Act and FCC rules.

^{11/} *First Report and Order* ¶ 31 (citing evidence that business and residential customers are reluctant to switch carriers if they must change telephone numbers, and stating that "[t]o the extent that customers are reluctant to change service providers due to the absence of number portability, demand for services provided by new entrants will be depressed. This could well discourage entry by new service providers and thereby frustrate the pro-competitive goals of the 1996 Act.").

^{12/} 47 C.F.R. § 52.23(b)(2)(i).

^{13/} Montana Telecommunications Act, Mont. Code Ann. §§ 69-3-801 to 870 (2005).

^{14/} Mont. Admin. Register § 38-5-4074.

Administrative Code defines “number portability” as “the ability of users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.”^{15/} Under this definition, when CenturyTel receives a port request from IDT, CenturyTel must port the number expeditiously “without impairment of quality, reliability, or convenience.” The FCC has interpreted this language to mean that consumers must be able to change carriers while keeping their telephone number as easily as they may change carriers without taking their telephone number with them.^{16/} Carriers may not impose non-porting related restrictions on the porting out process.^{17/}

11. Thus, when one of CenturyTel’s customers chooses to switch his telephone service from CenturyTel to IDT and wants to keep his telephone number, CenturyTel is required to port the number so long as IDT has a presence in the rate center. CenturyTel’s refusal to implement IDT’s port request is a direct violation of state and federal local number portability regulations designed to protect consumers and in contravention of state and federal pro-competitive policies. The Commission should direct CenturyTel to comply with its duty to consumers and initiate the requested ports immediately.

^{15/} Mont. Admin. Register § 38-5-4002(16).

^{16/} *In the Matter of Telephone Number Portability -Carrier Requests for Clarification of Wireless-Wireless Porting Issues*, CC Docket No. 95-116, 18 FCC Rcd. 20971 ¶ 11(rel. Oct. 7, 2003) (“2003 Wireless-Wireless Porting Order”).

^{17/} *Id.*

B. CenturyTel's Refusal to Port Is Improper Re-verification.

12. CenturyTel is engaging in improper re-verification by questioning the identity of IDT's customers. Under the both the Commission's and the FCC's rules, the role of the executing carrier is clearly defined:

"An executing carrier [here CenturyTel] shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier [IDT]. For an executing carrier, compliance with the procedures described in this part shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier."^{18/}

The FCC has confirmed that executing carriers cannot delay provider change requests even if the customer's name on the port request does not match the name in the executing LEC's database.^{19/}

The FCC has found that "executing carriers...have both the incentive and ability to delay or deny carrier changes."^{20/} The FCC expressed concern that executing carriers could use the verification process as a means of delaying or denying carrier change requests in order to benefit themselves or their affiliates.^{21/} While the FCC agreed that allowing executing carriers to re-verify carrier change requests could help to deter slamming, it ultimately concluded that the anti-competitive

^{18/} 47 C.F.R. § 64.1120(a)(2). The Montana Administrative Code mirrors the FCC's regulations with regard to prohibiting re-verification of provider change orders. *See*, Mont. Admin. Register § 38-5-3801(3) ("An executing carrier shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier. For an executing carrier, compliance with the procedures prescribed in this rule shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier").

^{19/} *In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, LEC Coalition Request for Declaratory Ruling Regarding Carrier Change Verification*, CC Docket No. 94-129, DA 05-1618 (2005); *see also*, *Public Notice Consumer & Governmental Affairs Bureau Seeks Comment on an Application for Review Filed by the Rural Local Exchange Carriers*, CC Docket 94-129, DA 05-3131 (2005).

^{20/} 47 C.F.R. § 64.1100(a); *see also* *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd. 1508 ¶¶ 92,99 (1998) ("Second Report and Order").

^{21/} *Id.* ¶ 99.

effects of re-verification outweighed the potential benefits.^{22/} In direct defiance of the Commission's and the FCC's rules, CenturyTel is denying Montana consumers the ability to exercise the right to port their numbers to the provider of their choice by engaging in the precise anti-competitive behavior the Commission's and the FCC's rules were designed to prevent.

13. In prohibiting carrier re-verification of port requests, the FCC was also concerned that re-verification by executing carriers could function as a *de facto* preferred carrier "freeze," in situations where a subscriber has not requested such a freeze.^{23/} The FCC concluded that actions, such as CenturyTel's actions here, create a *de facto* freeze and are anti-competitive because they "serve to restrict consumer control by eliminating the consumer's ability to designate someone as authorized to change telecommunications service without first contacting the local carrier."^{24/} CenturyTel's actions also violate the consumer protections under Montana statutes that "[n]o local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed" in accordance with applicable procedures.^{25/}

14. Accordingly, when CenturyTel receives IDT's LNP request in the form of a local service request ("LSR"), it may verify the customer's account information to ensure the name, address, telephone number, etc. are correct. It may also confirm that the number is eligible for

^{22/} *Id.*

^{23/} *Id.* ¶ 100. A preferred carrier freeze prevents a change in a subscriber's preferred carrier selection unless the subscriber gives the carrier from whom the freeze was requested his or her express written or oral consent. *See also*, 47 C.F.R. § 64.1190 (d) (2) ("No local exchange carrier shall implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with [FCC] procedures...").

^{24/} *See, In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, LEC Coalition Request for Declaratory Ruling Regarding Carrier Change Verification*, CC Docket No. 94-129, DA 05-1618 (Rel. June 9, 2005); *see also, Public Notice Consumer & Governmental Affairs Bureau Seeks Comment on an Application for Review Filed by the Rural Local Exchange Carriers (LECs)*, CC Docket 94-129, DA 05-3131 (rel. December 2, 2005).

^{25/} Mont. Admin. Register § 38-5-3817(2).

porting and that IDT has facilities or numbering resources in the rate center. Beyond that, CenturyTel's only duty is to port the number to IDT as expeditiously as possible. With every passing day that CenturyTel refuses to execute IDT's port requests, more and more Montana consumers are denied the benefits of competition.

C. CenturyTel is in Violation of its Duty to Route Calls to Ported Numbers.

15. CenturyTel is fully aware of its obligation to port numbers upon request. CenturyTel has been fined in the past for failing to comply with its LNP obligations.^{26/} Briefly, the FCC issued a notice of apparent liability ("*CenturyTel NAL*") against CenturyTel in May 2004 because, instead of querying the LNP database to determine where to route calls, CenturyTel simply "default" routed calls to the original carrier. As a result, the CenturyTel customer would get a message that the called number was not in service. The FCC emphasized that "[r]egardless of a carrier's obligation to provide number portability, all carriers have a duty to *route* calls to ported numbers."^{27/}

16. While the *CenturyTel NAL* arose in the context of wireline-wireless porting, the facts are similar to the situation with which IDT is faced. When a subscriber chooses to port his number to IDT, CenturyTel must route to IDT calls placed by CenturyTel customers to that number. The identity of IDT's end users is irrelevant. As the FCC stated, it is essential that customers not experience "any degradation in service quality or network reliability when

^{26/} CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of InterIsland, Inc., Apparent Liability for Forfeiture, DA -4-1303, 19 FCC Rcd 8543 (rel. May 13, 2004) ("*CenturyTel NAL*").

^{27/} *Id.* ¶ 4.

customers switch carriers.”^{28/} When an IDT customer cannot get his number ported or cannot receive calls originated by CenturyTel customers, the customer is experiencing exactly that sort of degradation.

II. CENTURYTEL IS IN BREACH OF ITS INTERCONNECTION AGREEMENT.

17. IDT is a wireline carrier certified to provide local exchange service in Montana. CenturyTel and IDT entered into an interconnection agreement that expressly incorporates the statutory duty to port numbers and the state and federal rules implementing that duty. Article IV, § 8.1 of the Agreement provides:

“LNP *shall* be provided in response to a porting request from either Party, consistent with applicable time periods and procedures established by the Act and applicable FCC regulations. The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable.”^{29/} (Emphasis added).

Article III, § 13 of the Agreement further provides:

“Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.”^{30/}

18. According to CenturyTel, the Agreement is intended to only cover arrangements concerning IDT’s provision of local service to end user customers. CenturyTel cites two provisions in the Agreement that it claims limits the Agreement’s arrangements, including number portability to IDT’s end users. First, it contends that IDT entered into the Agreement “in its capacity as a certified Provider of local two-way wireline dial-tone service,” citing the

^{28/} *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 ¶ 48 (1996). *See also*, 47 C.F.R. § 52.23(a)(5).

^{29/} Agreement, Article IV § 8.1.1.

^{30/} *Id.* Article III § 13.

opening paragraph of the Agreement. Second, it cites the first paragraph under Article I, Scope and Intent of Agreement, which provides that “the Parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of connection and the exchange of Local Traffic between their respective end-user customers.”

19. CenturyTel’s claim that it has no obligation to port numbers that it “believes” may not be related to IDT’s end users is without merit. CenturyTel’s statutory obligation to port numbers upon request from a telecommunications carrier, such as IDT, contains no such limitation. As stated above, the parties’ number porting obligations are independent of the Agreement.^{31/} The parties’ Agreement in no way contravenes or undermines CenturyTel’s duty to port numbers under the law and specifically states that the parties will port numbers consistent with law.^{32/} The Agreement does not provide CenturyTel any special relief from the law, nor can it. As the FCC has stated, providers cannot vitiate their porting obligations by including non-porting-related limitations in their agreements.^{33/} Indeed, in the wireless context, “no carrier may unilaterally refuse to port with another carrier because that carrier will not enter into an interconnection agreement.”^{34/}

20. CenturyTel’s sole reason for refusing to implement IDT’s port requests is based on a mistaken “belief that the porting requests submitted by IDT are not related to IDT end users.” CenturyTel has no right to refuse to port numbers based on the identity of IDT’s end

^{31/} *Id.* Article III § 23 (“ This Agreement shall be governed by and construed in accordance with applicable federal and (to the extent not inconsistent therewith) domestic laws of the state where the services are provided or the facilities reside”).

^{32/} Agreement, Article IV § 8.1.1 (“The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable”).

^{33/} 2003 *Wireless-Wireless Porting Order* ¶ 11.

^{34/} *First Report and Order* ¶ 21.

users. CenturyTel's refusal to port its customers' numbers is a violation of the law and is a breach of the Agreement.

21. CenturyTel fails to understand the legal definition of "end users." IDT's provision of telecommunications service to its customers is the provision of service to an end user. The FCC has explicitly stated that the provision of wholesale telecommunications services is considered the provision of telecommunications services to an end user by a telecommunications carrier.^{35/} When an entity such as Bresnan purchases services from telecommunications carriers such as IDT to support Bresnan's interconnected VoIP services, Bresnan is a business end user.

22. It is IDT's status as a "telecommunications carrier" and its provision of local exchange services that determines its entitlement to LNP processing under the Act, not the businesses of its end users.^{36/} As recognized by the FCC, wholesale entities such as interconnected VoIP service providers must purchase telecommunications services from regulated telecommunications carriers like IDT in order to originate and terminate calls on the public switched network, access 911 services, and obtain numbering resources.^{37/} CenturyTel cannot refuse to fulfill contract or legal obligations to consumers and co-carriers such as IDT because of the type of end user IDT serves. This is discrimination.

^{35/} *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd. 21905 ¶ 263 (1996) ("the definition of telecommunications services is intended to clarify that telecommunications services are common carrier services, which include wholesale services to other carriers").

^{36/} *Federal-State Joint Board on Universal Service*, 12 FCC Rcd. 8776 ¶ 785 (1997) (finding telecommunications services "include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers").

^{37/} *See, e.g., IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd. 10245 ¶ 38 (2005) (noting that VoIP service providers obtain 911 services from competitive local exchange carriers); *IP-Enabled Services*, 19 FCC Rcd. 4863 ¶ 12 (2004) (recognizing that VoIP service providers obtain telecommunications services from telecommunications carriers in order to provide services to the VoIP service provider's customers).

23. Although the Agreement itself does not define “end user,” §1.97 of Appendix C of the agreement provides that undefined terms are to be “construed in accordance with CenturyTel’s tariffs or, if not defined therein, under customary usage in the telecommunication industry.” In pertinent part, CenturyTel’s tariffs define end user as “any customer of an interstate or foreign telecommunications service that is not a carrier.”^{38/} (Emphasis added) Bresnan readily fits this definition. Bresnan is not a telecommunications carrier because it offers interconnected VoIP service.^{39/} Bresnan is an end user customer of IDT’s telecommunications services

24. CenturyTel’s interpretation of the Agreement to apply only to the direct, retail provision of services is not only legally unsound, it is profoundly anti-competitive. Interconnection agreements are the primary mechanism established by Congress to open local telephone markets to competition. CenturyTel, however, seeks to use the Agreement to stave off competition. Cable-based interconnected VoIP service, such as that offered by Bresnan, provides one of the few competitive alternatives available to residential customers in rural

^{38/} See e.g., CenturyTel FCC Tariff No. 1, § 2 pg. 68. See also, CenturyTel Tariff PSC Mont. AC-5 § 2-49 (The term “End User” means any customer of an intrastate telecommunications service that is not a carrier, except that a carrier other than a telephone company shall be deemed to be an “end user” when such carrier uses a telecommunications service for administrative purposes, and a person or entity that offers telecommunications service exclusively as a reseller shall be deemed to be an “end user” if all resale transmissions offered by such reseller originate on the premises of such reseller”).

^{39/} Report and Order and Notice of Proposed Rulemaking, FCC 06-94, 38 CR 1013, *Universal Service Contribution Methodology, Report and Order* (“USF Contribution Order”) and *Notice of Proposed Rulemaking* ¶ 35 (rel. June 27, 2006) (“The Commission has not yet classified interconnected VoIP services as ‘telecommunications services’ or ‘information services’ under the definitions of the Act”). It is well-established law that a single provider may offer both regulated and unregulated services and function as both a regulated and non-regulated entity. See *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, Report and Order and NPRM, 20 FCC Rcd. 14853 ¶ 73, n.221 (rel. Sept. 23, 2005) (“*Wireline Broadband Order*”) (citing *NARUC v. FCC* 533 F.2d 601, 698 (D.C. Cir. 1976) (“*NARUC II*”) (“[I]t is at least logical to conclude that one can be a common carrier with regard to some activities but not others.”)). See also, *Southwestern Bell Telephone Company v. FCC*, 19 F.3d 1475, 1481 (D.C. Cir. 1994). As the FCC has recognized, absent any legal compulsion to operate as a common carrier, it is ultimately up to the service provider to determine whether it will function as a common carrier or private carrier. See, *Wireline Broadband Order* ¶ 89 (confirming that broadband providers have the flexibility to offer transmission services as common carriers or private carriers).

markets.^{40/} Thus, competition will have to come from those that have deployed alternative last mile facilities, such as cable companies. The only practical method by which these competitive services can be made available to consumers is through arrangements like that between IDT and Bresnan.^{41/}

25. Numerous state commissions, including New York, Illinois, Iowa, and Ohio, have found that the services provided to a wholesale service provider are well within the scope of what telecommunications carriers commonly do and are “no different than [the services] performed by other competitive local exchange carriers.”^{42/} As a result, these state commissions determined that telecommunications carriers offering services to wholesale service providers were entitled to interconnection and other rights under § 251 and § 252 of the Act because those telecommunications carriers were “acting in a role no different than other telecommunications carriers whose network could interconnect with [ILECs] so that traffic is terminated to and from

^{40/} *Illinois Order* at 13 (noting that benefits of competition have been slow to reach rural areas and that arrangements like those at issue here “potentially allows those in rural areas to benefit from the competitive telecommunications market”).

^{41/} *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and NPRM 20 FCC Rcd. 10245 ¶ 40 (2005) (“*E911 VoIP Order*”) (recognizing that interconnected VoIP providers’ compliance with E911 obligations “is necessarily dependent on the ability of the interconnected VoIP providers to have access to the trunks and selective routers via competitive LECs that have negotiated access with incumbent LECs. . .”).

^{42/} Case 05-C-0170, *Petition of Sprint Communications Company L. P., Pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration to Establish an Intercarrier Agreement with Independent Companies*, Order Resolving Arbitration Issues (N.Y.P.S.C. May 24, 2005) (“*New York Order*”), on appeal *Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ. Action No. 05-CV-6502 (CJS) (MWP) (W.D.N.Y. filed Sept. 26, 2005); Case Nos. 050259, *et al., Cambridge Telephone Company, et al. Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties under §§ 251(b) and (c) of the Federal Telecommunications Act* (I.C.C. July 13, 2005) (“*Illinois Order*”); Docket No. ARB-05-02, *Arbitration of Sprint Communications Co. v. Ace Communications Group, et al.*, Order on Rehearing (I.U.B. Nov. 28, 2005) (“*Iowa Order*”); Case Nos. 04-1494-TP-UNC, *et al., Application and Petition in Accordance with Section II.A.2.b of the Local Service Guidelines Filed by: The Champaign Telephone Co., Telephone Services Co., the Germantown Independent Telephone Co., and Doylestown Telephone Co.*, Finding and Order (P.U.C.O. Jan. 26, 2005) (“*Ohio Order*”), *reh’g denied in pertinent part*, Order on Rehearing (P.U.C.O. Apr. 13, 2005).

each network and across networks.”^{43/} These rights include the immediate porting of numbers upon request.

26. If CenturyTel believes that it should be exempt from such competition, the Act provides a clear mechanism to achieve that result. Section 251(f)(2) of the Act contemplates that a carrier such as CenturyTel may be excused from market opening requirements such as number portability, by petitioning the Commission for a suspension or modification of its § 251(b) obligations.^{44/} CenturyTel has made no such petition. On the contrary, CenturyTel processes the porting requests of other carriers. CenturyTel has indicated that it ports numbers pursuant to its Montana Interconnection Agreements with Verizon Wireless, AirTel Wireless, LLC, and Granite Telecommunications, LLC. CenturyTel appears to believe that customers seeking to port to Bresnan/IDT have less rights than customers porting to other carriers. CenturyTel’s actions reflect the very type of discrimination and anti-competitive conduct that the Act and the Montana Commission have sought to prevent.^{45/} The Commission should intervene to eliminate the harm to Montana consumers caused by CenturyTel’s blatant anti-competitive and discriminatory conduct by directing CenturyTel to process all number porting requests submitted by IDT immediately.

^{43/} *Ohio Order* at 4-5, ¶ 7.

^{44/} 47 U.S.C. § 251(f) (2) (providing that a local exchange carrier with less than two percent of the Nation’s subscriber lines may “petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c)”).

^{45/} 47 U.S.C. § 202 (a) (“It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage”). *See also*, Mont. Code Ann. § 69-3-321 (the Commission is required to proceed against any public utility upon a complaint that “any regulations, measurements, practices, or acts whatsoever affecting or relating to the production, transmission, delivery, or furnishing of heat, light, water, power, or regulated telecommunications service, or any service in connection therewith is in any respect unreasonable, insufficient, or unjustly discriminatory” or “any service is inadequate”).

27. CenturyTel's refusal to port local numbers is a violation of the law. CenturyTel's interpretation of the Agreement is not correct and could not be correct because the Commission has held that "[a]ny provision or term of [an] Agreement that is in conflict with the law, whether or not specifically addressed by the Commission, is rejected as a matter of law and not in the public interest." Thus, CenturyTel's interpretation of the Agreement as limiting its responsibility to comply with local number portability is necessarily void under state law and the Commission's Order approving the Agreement.^{46/}

IDT'S REQUEST FOR EXPEDITED COMPLAINT PROCEEDING

28. Pursuant to Mont. Code Ann. §§ 69-3-829 and 830, IDT respectfully requests that the Commission apply its expedited complaint procedure to this case.

29. IDT has attempted in good faith to resolve its disagreement with CenturyTel prior to filing this Complaint and Petition for Expedited Complaint Proceeding. Mont. Code Ann. § 69-3-830(1)(a)(i).

30. This Complaint includes a description of the facts, including relevant documentation, of the issues in dispute and the position of IDT and CenturyTel with respect to those issues. Mont. Code Ann. § 69-3-830(1)(a)(ii).

31. IDT informed CenturyTel of its intent to file a petition for expedited complaint proceeding on July 19, 2006 and August 11, 2006, which is more than 10 days before IDT filed this Complaint with the Commission. Mont. Code Ann. § 69-3-830(1)(a)(iii).

^{46/} See, Commission Order ¶ 13. See also, Mont. Code Ann. §§ 28-2-604, 28-2-701, 28-2-702.

29. As noted on the attached Certificate of Service, IDT has provided a copy of this Complaint and Petition to CenturyTel by e-mail and overnight mail on the date the Commission received this Complaint and Petition pursuant to Mont. Code Ann. § 69-3-830(1)(b).

REQUEST FOR RELIEF

32. WHEREFORE, IDT files this Complaint and Petition for Expedited Complaint Proceeding.

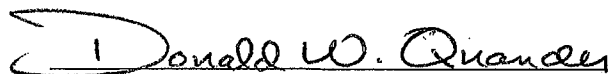
33. IDT respectfully requests the Commission enforce the state and federal laws applicable to CenturyTel and require it to honor immediately all requests by Montana consumers to have their numbers ported consistent with the rules of the Commission and the FCC.

34. Pursuant to Mont. Code Ann. §§ 69-3-829 and 830, to the extent deemed necessary, IDT respectfully requests that the Commission appoint a hearing examiner and establish a schedule setting dates for: 1) a conference between and among the Parties and the examiner to establish discovery deadlines and a hearing date, and 2) the examiner's proposed decision on this Complaint.

35. IDT respectfully requests that the Commission, after an expedited hearing on this Complaint, issue an Order prohibiting CenturyTel from refusing to comply with state and federal laws requiring it to honor IDT's number portability requests in the future and grant to IDT any and all other relief to which it may be entitled including, but not limited to, monetary damages pursuant to Mont. Code Ann. §§ 69-3-830 (11).

DATED this 21st day of August, 2006.

IDT America, Corp.



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Exhibit A

Expedited Complaint Statement

The following is a statement of the issues raised in the IDT Complaint. This statement is in addition to any and all points and matters raised in the body of the Complaint.

I. CenturyTel's Position:

- CenturyTel would not honor IDT's LNP requests because, according to the CenturyTel Letter, CenturyTel had "reason to believe" that the LNP requests "were not related to IDT's end users" pursuant to the Agreement.

II. IDT's Positions:

Violation of Federal Law:

- CenturyTel's refusal to port is in violation of § 251(b) of the federal Act. Section 251(b)(2) of the Act requires that all local exchange carriers provide number portability, to the extent technically feasible, in accordance with the requirements prescribed by the FCC.
- CenturyTel's refusal to port is in violation of FCC rules § 52.21(k)(1) and § 52.23 related to implementation of local number portability. CenturyTel is also in violation of its duty to route traffic to ported numbers without any degradation in service quality or network reliability when customers switch carriers.
- CenturyTel is in violation of FCC Orders and policies regarding implementation of local number portability as set forth in the body of the Complaint.
- CenturyTel is discriminating between similarly situated customers in violation of § 202 (a) of the Act. CenturyTel customers seeking to transition their service to Bresnan/IDT are provided fewer rights than those customers seeking to transfer their service and telephone number to other providers in CenturyTel's service areas.
- CenturyTel is engaging in improper re-verification by questioning the identity of IDT's customers in violation of FCC policies and § 64.1120(a)(2) of the FCC's rules by conditioning execution of IDT's port request on the identity of IDT's end user.
- CenturyTel's refusal to port local numbers is a violation of FCC policies and § 64.1190(d)(2) rules preventing improper carrier freezes, *de facto* or otherwise, absent customer consent.

Violation of State Law:

- CenturyTel's refusal to port is in violation of the Mont. Admin. Register § 38-5-4074 requiring that "[a]ll facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code."

- CenturyTel's refusal to port is in violation of Mont. Admin. Register § 38-5-4002(16) because it is impairing its customers' quality, reliability, and convenience when changing service providers while retaining the same number.
- CenturyTel is discriminating between similarly situated customers in violation of Mont. Code Ann. § 69-3-321(b). CenturyTel customers seeking to transition their service to Bresnan/IDT are provided fewer rights than those customers seeking to transfer their service and telephone number to other providers in CenturyTel's service areas.
- CenturyTel is engaging in improper re-verification by questioning the identity of IDT's customers in violation of Commission policies and Mont. Admin. Register § 38-5-3801(3).
- CenturyTel's refusal to port local numbers is a violation of Commission policies and Mont. Admin. Register § 38-5-3817(2) preventing improper carrier freezes, *de facto* or otherwise, absent customer consent.

CenturyTel is in Breach of its Interconnection Agreement with IDT

CenturyTel is in breach of the following provisions in the Agreement:

- Article III, § 13.
- Article III, § 23.
- Article IV, § 8.1.

CenturyTel is in Violation of the Commission's Order Approving the Interconnection Agreement:

- CenturyTel's conduct violates the law. According to the Commission's Order, any provisions in the Agreement that sanction such conduct are void pursuant to Mont. Code Ann. §§ 28-2-604, 28-2-701, 28-2-702.
- CenturyTel's refusal to port local numbers is a violation of the law. CenturyTel's interpretation of the Agreement is not correct and cannot be correct because as the Commission has held "[a]ny provision or term of this Agreement that is in conflict with the law, whether or not specifically addressed by the Commission, is rejected as a matter of law and not in the public interest." Thus, CenturyTel's interpretation of the Agreement as limiting its responsibility to comply with local number portability is necessarily void under state law and the Commission's Order approving the Agreement.

Exhibit B

TRAFFIC EXCHANGE AGREEMENT

BETWEEN

CENTURYTEL OF MONTANA, INC.

AND

IDT AMERICA, CORP.

IN THE STATE OF MONTANA

This Traffic Exchange Agreement (the "Agreement") is by and between CenturyTel of Montana, Inc. with the address for purposes of this Agreement at 100 CenturyTel Drive, Monroe, Louisiana 71203 (collectively "CenturyTel"), and IDT America, Corp. ("IDT"), in its capacity as a certified Provider of local two-way wireline dial-tone service, with its address for this Agreement at 520 Broad Street, Newark, New Jersey 07102 (CenturyTel and IDT being referred to collectively as the "Parties" and individually as a "Party"). This Agreement covers services in the State of Montana only (the "State").

WHEREAS, connection between Local Exchange Carriers (LECs) is necessary and desirable for the mutual exchange and termination of traffic originating on each LEC's network; and

WHEREAS, the Parties desire to exchange such traffic and related signaling in a technically and economically efficient manner at defined and mutually agreed upon connection points; and

WHEREAS, the Parties wish to enter into an agreement to interconnect their respective telecommunications networks on terms that are fair and equitable to both Parties; and

WHEREAS, Section 251 of the Telecommunications Act of 1996 (the "Act") imposes specific obligations on LECs with respect to the interconnection of their networks;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CenturyTel and IDT hereby covenant and agree as follows:

ARTICLE I SCOPE AND INTENT OF AGREEMENT

Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of connection and the exchange of Local Traffic between their respective end-user customers. This Agreement is an integrated package that reflects a balancing of interests critical to the Parties. The Parties agree that their entrance into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements and/or matters related to CenturyTel's cost recovery covered in this Agreement. IDT agrees to negotiate reciprocal terms and conditions with CenturyTel based on this Agreement.

The services and facilities to be provided to IDT by CenturyTel in satisfaction of this Agreement may be provided pursuant to CenturyTel tariffs and then current practices. Should such services and facilities be modified by tariff or by Order, including any modifications resulting from other Commission proceedings, federal court review or other judicial action, and unless otherwise specified herein, such modifications will be deemed to automatically supersede any rates and terms and conditions of this Agreement. The Parties shall cooperate with one another for the purpose of incorporating required modifications into this Agreement.

CenturyTel represents and warrants that it is a "rural telephone company" as that term is defined in the Act, 47 U.S.C. 153. Pursuant to Section 251 (f)(1) of the Act, CenturyTel is exempt from Section 251 (c) of the Act. Notwithstanding such exemption, CenturyTel has entered into and accepted this Agreement for purposes of exchanging local traffic, as defined in Article IV, Section 3 herein, with CLEC. CenturyTel's execution of the Agreement does not in any way constitute a waiver or limitation of CenturyTel's rights under Section 251 (f)(1) or 251 (f)(2) of the Act. Accordingly, CenturyTel expressly reserves the right to assert its right to an exemption or waiver and modification of Section 251 (c) of the Act, in response to other requests for interconnection by CLEC or any other carrier.

ARTICLE II

DEFINITIONS

1. General Definitions.

Except as otherwise specified herein, in case of any interpretation question, the standard definitions in CenturyTel's Section 251 Interconnection agreement template as set forth in Appendix C attached to this Agreement and made a part hereof shall apply to all Articles and Appendices contained in this Agreement. Additional definitions that are specific to the matters covered in a particular Article may appear in that Article. To the extent that there may be any conflict between a definition set forth in Appendix C and any definition in a specific Article or Appendix, the definition set forth in the specific Article or Appendix shall control with respect to that Article or Appendix.

ARTICLE III GENERAL PROVISIONS

1. Scope of General Provisions.

Except as may otherwise be set forth in a particular Article or Appendix of this Agreement, in which case the provisions of such Article or Appendix shall control, these General Provisions apply to all Articles and Appendices of this Agreement.

2. Term and Termination.

2.1 Term.

Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be for a period of two (2) years from the Effective Date as defined in Section 36 and therefore defined as the "Initial Term". This Agreement shall thereafter automatically renew for successive one (1) year periods (each a "Renewal Term"; the Initial Term and all Renewal Terms are collectively referred to as the "Term"), unless either party provides written notice of cancellation to the other at least ninety (90) days prior to the end of the Initial Term or the Renewal Term, as the case may be.

2.2 Post Termination Arrangements.

Except in the case of termination as a result of either Party's Default under Section 2.3 below, or a termination upon sale, pursuant to Section 2.5, for service arrangements made available under this Agreement and existing at the time of termination, those arrangements may continue:

- (a) As if under this Agreement, if either Party has requested negotiations for a new agreement, (i) until this Agreement has been replaced by a new agreement, or (ii) for up to one hundred eighty (180) calendar days following the date that either Party has given notice, pursuant to Section 2.1, of its desire to terminate this Agreement.
- (b) If this Agreement is not continued pursuant to subsection (a) preceding under (i) a new agreement voluntarily executed by the Parties; (ii) standard terms and conditions approved and made generally effective by the Commission, if any; (iii) tariff terms and conditions made generally available to all Local Providers.

2.3 Termination Upon Default.

Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party; *provided however*, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) Days of receipt of written notice thereof. Following a non-defaulting Party's notice to the defaulting Party of its Default, the non-defaulting Party shall not be required to process new service orders until the Default is timely cured. Default is defined to include:

- (a) A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party; or

- (b) A Party's Certificate of Operating Authority has been revoked by the Commission, or
- (c) A Party's refusal or failure in any material respect properly to perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement.

2.4 Termination Upon Ordering and Implementation Inactivity.

Notwithstanding anything to the contrary contained herein, CenturyTel may terminate this Agreement in the event IDT has not (a) placed any initial orders for any of the services to be provided pursuant to this Agreement and (b) implemented any said services to IDT customers within one (1) year from the Effective Date of this Agreement.

2.5 Termination Upon Sale.

Notwithstanding anything to the contrary contained herein, a Party may terminate this Agreement as to a specific operating area or portion thereof if such Party sells or otherwise transfers the area or portion thereof to a non-affiliate. The selling or transferring Party shall provide the other Party with at least sixty (60) Business Days' prior written notice of such termination, which shall be effective on the date specified in the notice. Notwithstanding termination of this Agreement as to a specific operating area, this Agreement shall remain in full force and effect in the remaining operating areas.

2.6 Liability Upon Termination.

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

3. Amendments.

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

4. Assignment.

Any assignment by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party shall be void, except that either Party may assign all of its rights, and delegate its obligations, liabilities and duties under this Agreement, either in whole or in part, to any entity that is, or that was immediately preceding such assignment, a Subsidiary or Affiliate of that Party without consent, but with written notification. The effectiveness of an assignment shall be conditioned upon the assignee's written assumption of the rights, obligations, and duties of the assigning Party, and the other Party being reasonably satisfied that the assignee is able to fulfill the assignor's obligations hereunder.

5. Authority.

Each person whose signature appears on this Agreement represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement. Each Party represents he or she has had the opportunity to consult with legal counsel of his or her choosing and neither Party has relied on the other Party's counsel or on representations by the other Party's personnel not specifically contained in this Agreement, in entering into this Agreement

6. Responsibility for Payment.

CenturyTel may charge IDT and IDT will pay CenturyTel a deposit before CenturyTel is required to perform under this agreement, if CenturyTel so deems a deposit appropriate after examination of IDT's payment and/or credit history. Such deposit will be calculated based on CenturyTel's estimated two-month charges to IDT. Deposits may be modified from time to time based on actual billing history and the credit rating of IDT. Interest will be paid on the deposit in accordance with state requirements for end user deposits.

7. CLEC Profile.

Before direct connection orders can be taken, the CLEC Profile in the form provided by CenturyTel must be completed by IDT and returned to CenturyTel; and, if required, by CenturyTel, an advanced deposit paid. Among other things IDT will provide CenturyTel with its Operating Company Number (OCN), Company Code (CC), and Customer Carrier Name Abbreviation (CCNA) as described in the CenturyTel Service Guide. IDT agrees to warrant to CenturyTel that it is a certified provider of telecommunications service in the State. IDT will document its Certificate of Operating Authority on the CLEC Profile and agrees to promptly update this CLEC Profile as required to reflect its current certification.

8. Contact Exchange.

The Parties agree to exchange and to update contact and referral numbers for order, inquiry, trouble reporting, billing inquiries, and information required to comply with law enforcement and other security agencies of the local, State and Federal governments.

9. Ordering and Electronic Interface.

Manual interface is currently being used for IDT to order services, and it includes facsimile orders and E-mail orders in accordance with the CenturyTel Service Guide. Conventional electronic ordering interface is not currently available. If CenturyTel later makes electronic interface ordering available to IDT, then the Parties agree that, to the extent practicable, electronic interface will be used by IDT for ordering services and manual interface will be discontinued unless this is impracticable.

10. Billing and Payment.

Except as provided elsewhere in this Agreement and where applicable, in conformance with Multiple Exchange Carrier Access Billing (MECAB) guidelines and Multiple Exchange Carriers Ordering and Design Guidelines for Access Services-Industry Support Interface (MECOD), IDT and CenturyTel agree to exchange all information to accurately, reliably, and properly order and bill for features, functions and services rendered under this Agreement.

10.1 Back Billing.

Neither Party will bill the other Party for previously unbilled charges for services that were provided longer ago than one (1) year or the applicable Federal or State statute of limitations, whichever is longer.

10.2 Dispute.

If one Party disputes a billing statement issued by the other Party, the billed Party shall notify Provider in writing regarding the nature and the basis of the dispute within thirty (30) business days of the receipt of the bill or the dispute shall be waived, subject to any State regulatory requirements. The Parties shall diligently work toward resolution of all billing issues. Notwithstanding the foregoing, if Provider notifies Party of the unpaid charges the dispute provisions thereof shall prevail.

10.3 Late Payment Charge.

If any undisputed amount due on the billing statement is not received by Provider on the payment due date, Provider shall calculate and assess, and Customer agrees to pay a charge on the past due balance at the lesser of an interest rate equal to the amount of 1½% charge per month, or the maximum nonusurious rate of interest under applicable law. Such late payment charges shall be included on the Provider's next statement.

10.4 Due Date.

Payment is due thirty (30) calendar days from the bill date.

10.5 Audits.

10.5.1 In General

Either Party may conduct an audit of the other Party's books and records pertaining to the Services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing, data and invoicing in accordance with this Agreement. Any audit shall be performed as follows: (i) following at least thirty (30) Business Days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.

10.5.2 Traffic Audits.

On twenty (20) Business Days written notice, each Party must provide the other the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic. CTOC and IDT shall retain records of call detail for a minimum of nine months from which a PIU can be ascertained. The audit shall be accomplished during normal business hours at an office designated by the Party being audited. Audit requests shall not be submitted more frequently than one (1) time per calendar year. Audit requests are limited to one (1) per calendar year including and covering Audits per Sections 10.5.1 and 10.5.2. Audits shall be performed by a mutually acceptable independent auditory paid for by the Party requesting the audit. The PIU shall be adjusted based upon the audit results and shall apply to the usage for the quarter the audit was completed, to the usage for the quarter prior to the completion of the audit, and to the usage for the two quarters following the completion of the audit. If, as a result of an audit either Party is found to have overstated the PIU by twenty percentage points (20%) or more, that Party shall reimburse the auditing Party for the cost of the audit.

11. Binding Effect.

This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

12. Capacity Planning and Forecasting.

Within twenty (20) Business Days from the effective date of this Agreement, or as soon after the effective date as practicable, the Parties agree to meet and develop joint planning and forecasting responsibilities which are applicable to, number portability and interconnection services. A Party may delay processing the other Party's service orders should the Parties not perform obligations as specified in this Section 12. Such responsibilities shall include but are not limited to the following:

- 12.1 The Parties will establish periodic reviews of network and technology plans and will notify one another no later than six (6) months in advance of changes that would impact either Party's provision of services.
- 12.2 Each Party will furnish to the other Party information that provides for statewide annual forecasts of order activity, in-service quantity forecasts, and facility/demand forecasts.
- 12.3 The Parties will develop joint forecasting responsibilities for traffic utilization over trunk groups and yearly forecasted trunk quantities as set forth in Article IV.
- 12.4 Each Party shall notify the other Party promptly of changes greater than ten percent (10%) to current forecasts (increase or decrease) that generate a shift in the demand curve for the following forecasting period. A Party's orders that exceed the capacity of that Party's forecast shall only be filled to the extent the requested capacity is Currently Available.
- 12.5 Each Party reserves the right to condition the fulfillment of additional service orders on satisfactory fill rates by the ordering Party in previously ordered capacity, or on payment for all of the additional capacity absent satisfactory fill rates.

13. Compliance with Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

14. Confidential Information.

14.1 Identification.

Either Party may disclose to the other proprietary or confidential customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information").

Notwithstanding the foregoing, preorders and all orders for services placed by IDT pursuant to this Agreement, and information that would constitute customer proprietary network information of IDT end user customers pursuant to the Act and the rules and regulations of the FCC, as well as recorded usage information

with respect to IDT end users, whether disclosed by IDT to CenturyTel or otherwise acquired by CenturyTel in the course of its performance under this Agreement shall be considered Confidential Information.

14.2 Handling.

In order to protect such Confidential Information from improper disclosure, each Party agrees:

- (a) That all Confidential Information shall be and shall remain the exclusive property of the source;
- (b) To limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information for performance of this Agreement;
- (c) To keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;
- (d) Not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;
- (e) To return promptly any copies of such Confidential Information to the source at its request; and
- (f) To use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.

14.3 Exceptions.

These obligations shall not apply to any Confidential Information that was legally in the recipient's possession prior to receipt from the source, was already known or received in good faith from a third party, now is or later becomes publicly known through no breach of confidential obligation by the recipient, was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source, was expressly approved for release by written authorization of the disclosing Party, or that is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction, provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements.

14.4 Survival.

The obligation of confidentiality and use with respect to Confidential Information disclosed by one Party to the other shall survive any termination of this Agreement for a period of two (2) years from the date of the initial disclosure of the Confidential Information.

15. Consent.

Where consent notice, approval, mutual agreement, or similar action is permitted or required of a Party by any provision of this Agreement, it shall not be conditional, unreasonably withheld, or delayed.

16. Fraud.

Each Party assumes responsibility for all fraud associated with its end-user customers and accounts. Neither Party shall bear responsibility for, nor is it required to investigate or make adjustments to the other Party's account in cases of fraud.

17. Reimbursement of Expenses.

In performing under this Agreement either Party may be required to make expenditures or otherwise incur costs that are not otherwise reimbursed under this Agreement. The Party providing such services shall provide the other Party written notification when cost reimbursement from that Party is expected. The other Party will acknowledge and agree to the estimated cost before the providing Party is entitled to such reimbursement.

18. Dispute Resolution.

18.1 Alternative to Litigation.

Except for the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedures as the sole remedy with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

18.2 Negotiations.

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The Parties intend that these negotiations be conducted by non-lawyer, business representatives. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as confidential information developed for purposes of settlement, exempt from discovery, and shall not be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise discoverable, be discovered or otherwise admissible, be admitted in evidence, in the arbitration or lawsuit.

18.3 Arbitration.

If the negotiations do not resolve the dispute within sixty (60) Business Days of the initial written request, the dispute shall be submitted to binding arbitration. At the election of either Party, arbitration shall be before the Commission. Otherwise, arbitration shall be by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association ("AAA") except that the Parties may select an arbitrator outside American Arbitration Association rules upon mutual agreement. If the State Commission is selected as the arbitrator, its arbitration rules shall apply. Otherwise the rules described in part (a) below shall be applicable.

- (a) A Party may demand such arbitration in accordance with the procedures set out in AAA rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may

submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) Business Days of the demand for arbitration. The arbitration shall be held in a mutually agreeable city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) Business Days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause.

- (b) Judgment upon the award rendered by the arbitrator, whether it be the Commission or an AAA or other arbitrator, may be entered in any court having jurisdiction

18.4 Expedited Arbitration Procedures.

If the issue to be resolved through the negotiations referenced in Section 18.2 directly and materially affects service to either Party's end-user customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration shall be five (5) Business Days. Once such a service affecting dispute is submitted to arbitration, and if arbitration with the Commission is not selected, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 57).

18.5 Costs.

Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the reasonable costs of production of documents (including search time and reproduction costs).

18.6 Continuous Service.

The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure, and the Parties shall continue to perform their obligations in accordance with this Agreement. However, during the pendency of any dispute resolution procedures each Party reserves the right not to accept new service orders from the other Party.

19. Entire Agreement.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

20. Expenses.

Except as applicable in accordance with Section 17, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

21. Force Majeure.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other material change of circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); *provided however*, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease. It is expressly agreed that financial difficulties of a Party are not subject to this Section.

22. Good Faith Performance.

In the performance of their obligations under this Agreement, the Parties shall act in good faith. In situations in which notice, consent, approval or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be conditional, unreasonably withheld or delayed.

23. Governing Law.

This Agreement shall be governed by and construed in accordance with applicable federal and (to the extent not inconsistent therewith) domestic laws of the state where the services are provided or the facilities reside.

24. Standard Practices.

The Parties acknowledge that CenturyTel shall be adopting some industry standard practices and/or establishing its own standard practices to various requirements hereunder applicable to the CLEC industry which may be added in the CenturyTel Service Guide. IDT agrees that CenturyTel may implement such practices to satisfy any CenturyTel obligations under this Agreement.

25. Headings.

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

26. Independent Contractor Relationship.

The persons provided by each Party shall be solely that Party's employees and shall be under the sole and exclusive direction and control of that Party. They shall not be considered employees of the other Party for any purpose. Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment of labor, hours of labor, health and safety, working conditions and payment of wages. Each Party shall also be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, workers' compensation, disability insurance, and federal and state

withholding. Each Party shall indemnify the other for any loss, damage, liability, claim, demand, or penalty that may be sustained by reason of its failure to comply with this provision.

27. Law Enforcement Interface.

- 27.1 Except to the extent not available in connection with CenturyTel's operation of its own business, CenturyTel shall provide seven day a week/twenty-four hour a day assistance to law enforcement persons for emergency traps, assistance involving emergency traces and emergency information retrieval on customer invoked CLASS services.
- 27.2 CenturyTel agrees to work jointly with IDT in security matters to support law enforcement agency requirements for taps, traces, court orders, etc.
- 27.3 Each Party will, in non-emergency situations, inform the requesting law enforcement agencies that the end-user to be wire tapped, traced, etc. is the other Party's Customer and shall refer them to the other Party.

28. Liability and Indemnity.

28.1 Indemnification.

Subject to the limitations set forth in Section 28.4 of this Article III, each Party agrees to release, indemnify, defend, and hold harmless the other Party and its parent and its affiliates and their officers, directors and employees (the "indemnified Party") from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, whether suffered, made, instituted, or asserted by any other party or person, for invasion of privacy, personal injury to or death of any person or persons, or for losses, damages, or destruction of property, whether or not owned by others, proximately caused by the indemnifying Party's negligence or willful misconduct, regardless of form of action. The indemnified Party agrees to notify the other Party promptly, in writing, of any written claims, lawsuits, or demands for which it is claimed that the indemnifying Party is responsible under this Section and to cooperate in every reasonable way to facilitate defense or settlement of claims. The indemnifying Party shall have complete control over defense of the case and over the terms of any proposed settlement or compromise thereof. The indemnifying Party shall not be liable under this Section for settlement by the indemnified Party or any claim, lawsuit, or demand, if the indemnifying Party has not approved the settlement in advance, unless the indemnifying Party has had the defense of the claim, lawsuit, or demand tendered to it in writing and has failed to assume such defense. In the event of such failure to assume defense, the indemnifying Party shall be liable for any reasonable settlement made by the indemnified Party without approval of the indemnifying Party.

28.2 End-User and Content-Related Claims.

The Indemnifying Party agrees to release, indemnify, defend, and hold harmless the other Party, its affiliates, and any third-party provider or operator of facilities involved in the provision of services or Facilities under this Agreement (collectively, the "Indemnified Party") from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by the Indemnifying Party's end-users against an Indemnified Party arising from Services or Facilities. The Indemnifying Party further agrees to release,

indemnify, defend, and hold harmless the Indemnified Party from all losses, claims, demands, damages, expenses, suits, or other actions, or any liability whatsoever, including, but not limited to, costs and attorney's fees, suffered, made, instituted, or asserted by any third party against an Indemnified Party arising from or in any way related to actual or alleged defamation, libel, slander, interference with or misappropriation of proprietary or creative right, or any other injury to any person or property arising out of content transmitted by the Indemnifying Party and the Indemnified Party or such Party's end-users, or any other act or omission of the Indemnified Party or such Party's end-users.

28.3 DISCLAIMER.

EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES TO CUSTOMER CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. PROVIDER DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

28.4 Limitation of Liability.

Each Party's liability to the other Party, whether in contract, tort or otherwise, shall be limited to direct damages, which shall not exceed the monthly charges, plus any related costs/expenses either Party may recover, including those under Section 15 above, and plus any costs/expenses for which the Parties specify reimbursement in this Agreement for the services or facilities for the month during which the claim of liability arose. Under no circumstance shall either Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or any accessories attached thereto, delay, error, or loss of data. Should either Party provide advice, make recommendations, or supply other analysis related to the services or facilities described in this Agreement, this limitation of liability shall apply to provision of such advice, recommendations, and analysis.

29. Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

30. No Third Party Beneficiaries.

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

31. Notices.

Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally, on the date receipt is acknowledged in writing by the recipient if delivered by regular U.S. mail, or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable street or post office box address indicated below or such address as the Party to be notified has

designated by giving notice in compliance with this Section: Although E-mail will not be used to provide notice, the Parties provide their E-mail addresses below to facilitate informal communications.

If to CenturyTel: CenturyTel, Inc.
Attention: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203
Telephone number: (318) 388-9000
Facsimile number: (318) 388-9072

With a copy to: Carrier Relations
CenturyTel
805 Broadway
Vancouver, WA 98660
Telephone number: (360) 905-6985
Facsimile number: (360) 905-6811

If to IDT: Ana Bataille
IDT America, Corp.
520 Broad Street
Newark, New Jersey 07102
Telephone number: (973) 438-4491
Facsimile number: (973) 438-1455
E-mail: Ana.Bataille@corp.idt.net

With a copy to: Chana Goldberger
IDT America, Corp.
520 Broad Street
Newark, New Jersey 07102

32. Protection.

32.1 Impairment of Service.

The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in its services, cause damage to its plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities or create hazards to the employees of either Party or to the public (each hereinafter referred to as an "Impairment of Service").

32.2 Resolution.

If either Party causes an Impairment in Service, the Party whose network or service is being impaired (the "Impaired Party") shall promptly notify the Party causing the Impairment of Service (the "Impairing Party") of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. The Impairing Party and the Impaired Party agree to work together to attempt to promptly resolve the Impairment of Service. If the Impairing Party is unable to promptly remedy the Impairment of Service, then the Impaired Party may at its

option temporarily discontinue the use of the affected circuit, facility or equipment.

33. Publicity.

Any news release, public announcement, advertising, or any form of publicity pertaining to this Agreement, provision of Services or Facilities pursuant to it, or association of the Parties with respect to provision of the services described in this Agreement shall be subject to prior written approval of both CenturyTel and IDT.

34. Regulatory Agency Control.

This Agreement shall at all times be subject to changes, modifications, orders, and rulings by the Federal Communications Commission and/or the applicable State Commission to the extent the substance of this Agreement is or becomes subject to the jurisdiction of such agency.

35. Changes in Legal Requirements.

CenturyTel and IDT further agree that the terms and conditions of this Agreement were composed in order to effectuate the legal requirements in effect at the time the Agreement was produced. Any modifications to those requirements will be deemed to automatically supersede any terms and conditions of this Agreement.

36. Effective Date.

This Agreement will be effective only upon execution by both Parties unless prior Commission approval is required, in which case this Agreement shall be effective upon Commission approval. The "effective date" of this Agreement for all purposes will be the latest date reflected by the signing parties. The Parties agree that orders for services will not be submitted or accepted until the later of (a) the submission of the CLEC Profile required by Section 7; or (b) the expiration of the first ten (10) Business Days after the Agreement is effective.

37. Regulatory Matters.

Each Party shall be responsible for obtaining and keeping in effect all FCC, Commission, franchise authority and other regulatory approvals that may be required in connection with the performance of its obligations under this Agreement.

38. Rule of Construction.

No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement.

39. Section References.

Except as otherwise specified, references within an Article of this Agreement to a Section refer to Sections within that same Article.

40. Severability.

If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results, in the opinion of either Party, in a material change to this Agreement. If a material change as described in this paragraph occurs as a result of action by a court or regulatory agency, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon within a reasonable period, either Party may terminate this Agreement without penalty or liability for such termination upon written notice to the other Party.

41. Subcontractors.

Provider may enter into subcontracts with third parties or affiliates for the performance of any of Provider's duties or obligations under this Agreement, provided that a Provider remains liable for the performance of its duties and obligations hereunder.

42. Subsequent Law.

The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, or regulations that subsequently may be prescribed by any federal, state or local governmental authority. To the extent required by any such subsequently prescribed law, rule, or regulation, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, or regulation. Further, to the extent such law, rule, or regulation allows one or both Parties the choice to operate, voluntarily, in a manner contrary to the current term(s) and condition(s) of this Agreement, the Parties agree to modify, in writing, the affected term(s) and condition(s), should one or both Parties choose to avail themselves of such law, rule, or regulation. The Dispute Resolution provisions of Article III, Section 18 shall also govern any disputes arising out of or relating to such modifications. To the extent that subsequent applicable laws, rules or regulations of Federal, State or local governmental authority require modification or negotiation of one or more terms of this Agreement, the Parties agree to begin negotiating such terms within twenty (20) Business Days after such subsequent change. If negotiations fail within forty (40) Business Days thereafter, this matter shall proceed to the Dispute Resolution procedures of Article III, Section 18, with the consequent changes in this Agreement to be retroactive to when negotiations began under this Section.

43. Taxes.

Any state or local excise, sales, or use taxes (excluding any taxes levied on income) resulting from the performance of this Agreement shall be borne by the Party upon which the obligation for payment is imposed under applicable law, even if the obligation to collect and remit such taxes is placed upon the other Party. The collecting Party shall charge and collect from the obligated Party, and the obligated Party agrees to pay to the collecting Party, all applicable taxes, except to the extent that the obligated Party notifies the collecting Party and provides to the collecting Party appropriate documentation as CenturyTel requires that qualifies the obligated Party for a full or partial exemption. Any such taxes shall be shown as separate items on applicable billing documents between the Parties. The obligated Party may contest the same in good faith, at its own expense, and shall be entitled to the benefit of any refund or recovery, provided that such Party shall not permit any lien to exist on any asset of the other Party by reason of the contest. The collecting Party shall cooperate in any such contest by the other Party. The other Party will indemnify the collecting Party from any sales or use taxes that may be subsequently levied on payments by the other Party to the collecting Party.

Notwithstanding anything to the contrary contained herein, each Party is responsible for furnishing tax exempt status information to the other Party at the time of the execution of the Agreement. Each Party is also responsible for furnishing any updates or changes in its tax exempt status to the other Party during the Term of the Agreement and extensions thereof. In addition, each Party is responsible for submitting and/or filing tax exempt status information to the appropriate regulatory, municipality, local governing, and/or legislative body. It is expressly understood and agreed that a Party's representations to the other Party concerning the status of its claimed tax exempt status, if any, and its impact on this Section 43 are subject to the indemnification provisions of Section 28.1.

43.1 Tax.

A charge which is statutorily imposed by the state or local jurisdiction and is either (a) imposed on the seller with the seller having the right or responsibility to

pass the charge(s) on to the purchaser and the seller is responsible for remitting the charge(s) to the state or local jurisdiction or (b) imposed on the purchaser with the seller having an obligation to collect the charge(s) from the purchaser and remit the charge(s) to the state or local jurisdiction.

Taxes shall include but not be limited to: federal excise tax, state/local sales and use tax, state/local utility user tax, state/local telecommunication excise tax, state/local gross receipts tax, and local school taxes. Taxes shall not include income, income-like, gross receipts on the revenue of a Provider, or property taxes. Taxes shall not include payroll withholding taxes unless specifically required by statute or ordinance.

43.2 Fees/Regulatory Surcharges.

A charge imposed by a regulatory authority, other agency, or resulting from a contractual obligation, in which the seller is responsible or required to collect the fee/surcharge from the purchaser and the seller is responsible for remitting the charge to the regulatory authority, other agency, or contracting party.

Fees/Regulatory Surcharges shall include but not be limited to E-911/911, other N11, franchise fees, and Commission surcharges.

44. Trademarks and Trade Names.

Except as specifically set out in this Agreement, nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever.

45. Waiver.

The failure of either Party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to it under this Agreement, shall not be construed as a waiver of such provision or any provisions of this Agreement, and the same shall continue in full force and effect.

46. Environmental Responsibility.

The Parties agree that prior to such time as either Party may place its equipment in the other Party's premises pursuant to a collocation or some other arrangement, the Parties will negotiate appropriate terms with respect to responsibility for environmental matters.

47. TBD Prices.

If a provision references prices in an Attachment and there are no corresponding prices in such Attachment, such price shall be considered "To Be Determined" (TBD). With respect to all TBD prices, prior to a Party ordering any such TBD item, the Parties shall meet and confer to establish a price. If the Parties are unable to reach agreement on a price for such item, an interim price shall be set for such item that is equal to the price for the nearest analogous item for which a price has been established. Any interim prices so set shall be subject to modification by any subsequent decision of the Commission. If an interim price is different from the rate subsequently established by the Commission, any underpayment shall be paid, and any overpayment shall be refunded within 45 Business Days after the establishment of the price by the Commission.

ARTICLE IV

CONNECTION AND TRANSPORT AND TERMINATION OF TRAFFIC

1. Services Covered by This Article.

1.1 Types of Services.

This Article governs the provision of internetwork facilities (i.e., physical connection services and facilities), by CenturyTel to IDT or by IDT to CenturyTel and the transport and termination and billing of Local Traffic between CenturyTel and IDT. For purposes of this Agreement, Local Traffic shall be defined per Appendix C, Section 1.61. Traffic not meeting the definition of Local Traffic is not subject to this Agreement. CenturyTel reserves the right to otherwise seek compensation for such non-Local Traffic including the imposition of access charges where appropriate.

1.1.1 If it becomes necessary to implement a direct interconnection, IDT will initiate orders for trunk-side Local Traffic connection services by sending an ASR to CenturyTel. The ordering process is described in the CenturyTel Service Guide.

1.1.2 IDT will comply with the Capacity Planning and Forecasting provisions of Section 12, Article III and Section 4 of this Article IV before CenturyTel will process IDT's ASR for interconnection services.

2. Billing, Ordering and Rates.

2.1 Service Ordering, Service Provisioning, and Billing.

The following describes generally the processes CenturyTel will use for ordering, provisioning and billing for connection facilities and services. For ordering, IDT will issue an ASR to CenturyTel, the ASR will be reviewed by CenturyTel for validation and correction of errors. Errors will be referred back to IDT. IDT then will correct any errors that CenturyTel has identified and resubmit the request to CenturyTel through a supplemental ASR. Except as specifically provided otherwise in this Agreement, service ordering, provisioning, billing and maintenance shall be governed by the CenturyTel Service Guide.

2.2 Rates and Charges.

IDT agrees to pay to CenturyTel the rates and charges for the Services set forth in the applicable appendices to this Agreement and to the applicable Century Tel tariffs. Rates and charges are set forth in Appendix A attached to this Agreement and made a part hereof.

2.3 Billing.

If direct connection is implemented, CenturyTel shall render to IDT a bill for direct connection services on a current basis. Charges for physical facilities and other non-usage sensitive charges shall be billed in advance, except for charges and credits associated with the initial or final bills. Usage sensitive charges, such as charges for termination of Local Traffic, shall be billed in arrears.

2.4 Billing Specifications.

The Parties agree that billing requirements and outputs will be consistent with the Ordering & Billing Form (OBF) and also with Telcordia Technologies Billing Output Specifications (BOS).

2.4.1 Usage Measurement: Usage measurement for calls shall begin when Answer Supervision or equivalent Signaling System 7 (SS7) message is received from the terminating office and shall end at the time of call disconnect by the calling or called subscriber, whichever occurs first.

2.4.2 Minutes of use (MOU), or fractions thereof, shall not be rounded upward on a per-call basis, but will be accumulated over the billing period. At the end of the billing period, any remaining fraction shall be rounded up to the nearest whole minute to arrive at total billable minutes. MOU shall be collected and measured in minutes, seconds, and tenths of seconds.

3. Transport and Termination of Local Traffic.

3.1 Traffic to be Exchanged.

The Parties shall reciprocally terminate Local Traffic originating on each other's networks utilizing either Direct or Indirect Network Connections as provided in Section 4 or Section 5 herein. To this end, the Parties agree that there will be interoperability between their networks. In addition, the Parties will notify each other of any anticipated material change in traffic to be exchanged (e.g., traffic type, volume).

3.2 Compensation for Exchange of Local Traffic.

3.2.1 Mutual Compensation. The Parties shall compensate each other for the exchange of Local Traffic originated by or terminating to the Parties' end-user customers in accordance with Section 3.2.2 of this Article, subject to any applicable regulatory conditions. Charges for the transport and termination of optional EAS, intraLATA toll and interexchange traffic shall be in accordance with the Parties' respective intrastate or interstate access tariffs, as appropriate.

3.2.2 Bill-and-Keep. The Parties shall assume that Local Traffic originated by or terminating to the Parties' end-user customers is roughly balanced between the parties unless traffic studies indicate otherwise. Accordingly, the Parties agree to use a Bill-and-Keep Arrangement with respect to termination of Local Traffic only. Either Party may initiate a traffic study no more frequently than once every six (6) months. Such traffic study shall examine all Local Traffic excluding Local Traffic that is also Information Access Traffic. Should such traffic study indicate, in the aggregate, that either Party is terminating more than 60 percent of the other Party's total terminated minutes for Local Traffic excluding Local Traffic that is also Information Access Traffic, either Party may notify the other that mutual compensation will commence for such Local Traffic, excluding Local Traffic that is also Information Access Traffic, pursuant to the rates set forth in Appendix A of this Agreement and following such notice it shall begin and continue for the duration of the Term of this Agreement unless otherwise agreed pursuant subsequent traffic studies (not more frequent than every 12 months) indicate that the traffic has changed to reflect that neither party terminates more than 60% of the others traffic.

3.2.3 Percentage Interstate Usage. In the case where either Party desires to terminate its Local Traffic over or co-mingled on its switched access Feature Group D trunks, such Party will be required to provide a projected Percentage Interstate Usage ("PIU") to the other Party. All jurisdictional report requirements, rules and regulations for Interexchange Carriers specified in CenturyTel's Intrastate Access Services Tariff will apply to both Parties. Notwithstanding the foregoing, where the terminating Party has message recording technology that identifies the jurisdiction of traffic terminated as defined in this Agreement, such information, in lieu of the PIU factor, shall, at the terminating Party's option, be utilized to determine the appropriate local usage compensation to be paid.

3.3 Tandem Switching Local Traffic.

The Parties agree to enter into their own agreements with third-party providers. In the event that IDT sends traffic through CenturyTel's network to a third-party provider with whom IDT does not have a traffic interexchange agreement, then IDT agrees to indemnify CenturyTel for any termination charges rendered by a third-party provider for such traffic.

4. Network Connection.

4.1 Network Connection Architecture.

IDT may connect at any technologically feasible point within the CenturyTel network, as required by the FCC. In particular, and as discussed below, IDT can connect at any Currently Available Interconnection Points (IP). Connection at additional points will be reviewed on an individual case basis. Where the Parties mutually agree following a Bona Fide Request (BFR) to directly connect their respective networks, connection will be as specified in the following subsections. All things being equal, CenturyTel will work with IDT in all circumstances to install IPs within 120 calendar days, where technologically feasible and not economically burdensome. Direct connection between the parties will conform to industry standards and protocols and be consistent with Section 256 of the Act.

4.1.1 Subject to mutual agreement, the Parties may use the following types of network facility connection, using such interface media as are (i) appropriate to support the type of connection requested and (ii) available at the facility at which connection is requested. Where direct connection is utilized under options (a) or (b) below, the Parties will mutually designate at least one IP on CenturyTel's network within each CenturyTel local calling area for the routing of Local Traffic.

- a. A Mid-Span Fiber Meet within an existing CenturyTel exchange area whereby the Parties mutually agree to jointly plan and engineer their facility IP at a designated manhole or junction location with each Party being individually responsible for its incurred costs in establishing this arrangement. The IP is the physical demarcation depicting ownership of the fiber transmission facility.
- b. A Special Access and/or CLEC Dedicated Transport arrangement terminating at a CenturyTel Wire Center subject to the rates, terms, and conditions contained in CenturyTel's applicable tariffs. These

facilities will meet the standards set forth in such tariffs and/or industry standards.

- c. If the Parties agree, traffic may be exchanged via indirect connections by transiting a third-party provider's interconnection. In the event that one Party sends traffic through a third-party provider, then that Party agrees to indemnify the other Party for any termination, transiting or tandem charges rendered by a third-party provider for such traffic.

4.2 Compensation.

The Parties agree to the following compensation for direct connection facilities, depending on facility type.

- 4.2.1 Mid-Span Fiber Meet: Each Party shall pay for the interconnection facilities on their side of the IP. The IP will be at a technically feasible point within CenturyTel's exchange boundary.
- 4.2.2 Special Access: Each Party shall pay for the interconnection facilities on their side of the IP. The IP will be at a technically feasible point within CenturyTel's exchange boundary.

4.3 Trunking Requirements.

The Parties shall meet from time to time and agree on trunking availability and requirements in order for the Parties to begin exchange of traffic.

- 4.3.1 The Parties agree to establish trunk groups of sufficient capacity from the direct connection facilities such that trunking is available to any switching center designated by either Party, including end offices, tandems, and 911 routing switches. The Parties will mutually agree where one-way or two-way trunking will be available. The Parties may use two-way trunks for delivery of Local Traffic or either Party may elect to provision its own one-way trunks for delivery of Local Traffic to the other Party. If a Party elects to provision its own one-way trunks for Local Traffic, that Party will be responsible for its own expenses associated with the trunks.
- 4.3.2 The Parties agree to make available to each other trunks over which the Parties shall terminate Local Traffic to each other's end-users.
- 4.3.3 IDT and CenturyTel shall, where applicable, make reciprocally available, by mutual agreement, the required trunk groups to handle different traffic types. IDT and CenturyTel will support the provisioning of trunk groups that carry combined or separate Local Traffic. CenturyTel requires separate trunk groups from IDT to originate and terminate Non-Local Traffic calls and to provide Switched Access Service to IXC's. To the extent IDT desires to have any IXC's originate or terminate switched access traffic to or from IDT, using jointly provided switched access facilities routed through a CenturyTel access tandem, it is the responsibility of IDT to arrange for such IXC to issue an ASR to CenturyTel to direct CenturyTel to route the traffic. If CenturyTel does not receive an ASR from the IXC, CenturyTel will initially route the switched access traffic between the IXC and IDT. If the IXC subsequently indicates that it does not want the traffic routed to or from IDT, CenturyTel will not route the traffic.

4.3.3.1 Each Party agrees to route traffic only over the proper jurisdictional trunk group.

4.3.3.2 Each Party shall only deliver traffic over the local connection trunk groups to the other Party's access tandem for those publicly-dialable NXX Codes served by end offices that directly subtend the access tandem or to those wireless service providers that directly subtend the access tandem.

4.3.3.3 Neither party shall route Switched Access Service traffic over local connection trunks, or Local Traffic over Switched Access Service trunks.

4.3.4 End-Office Trunking. The Parties will work together to establish high usage end-office trunk groups sufficient to handle the greater of the actual or reasonably forecasted traffic volumes between a IDT end office and a CenturyTel end office.

4.3.5 Intentionally left blank.

4.3.6 Reciprocal traffic exchange arrangement trunk connections shall be made at a DS-1 or multiple DS-1 level, DS-3, (Synchronous Optical Network (SONET)) where technically available) and shall be jointly engineered to the applicable State grade of service standard.

4.3.7 IDT and CenturyTel agree to use diligent efforts to develop and agree on a Joint Connection Plan prescribing standards to ensure that the reciprocal traffic exchange arrangement trunk groups are maintained at the appropriate grade of service standard or the Joint Connection Plan referenced in Section 4.3.7. Such plan shall also include mutually-agreed upon default standards for the configuration of all segregated trunk groups.

4.3.8 SS7 Common Channel Signaling will be used to the extent that such technology is available. If SS7 is not available, Multi-Frequency Signaling (MF) will be used as specified.

4.3.9 The Parties agree to offer and provide to each other B8ZS Extended Superframe Format (ESF) facilities, where available, capable of voice and data traffic transmission. The Parties will support intercompany 64kbps clear channel where available.

4.3.10 Orders between the Parties to establish, add, change or disconnect trunks shall be processed by use of an Access Service Request (ASR), or another industry standard eventually adopted to replace the ASR for local service ordering.

4.4 Trunk Forecasting.

4.4.1 The Parties will develop joint trunk group forecasting consistent with Article III, Section 12, and as a condition to CenturyTel's processing of IDT direct connection ASRs under Section 1.1. Direct connection forecasts must be provided between the Parties, once annually. The annual forecasts will include:

4.4.1.1 Yearly forecasted trunk quantities for no less than a two-year period (current year, plus one year); and the use of (i) CLCI-MSG

codes, which are described in Telcordia Technologies document BR 795-100-100; (ii) circuit identifier codes as described in BR 795-400-100; and (iii) Trunk Group Serial Number (TGSN) as described in BR 751-100-195.

4.4.2 The Parties agree to describe and disclose major network projects that affect the other Party with the annual forecasts provided pursuant to Section 4.4.1.1. Major network projects include but are not limited to trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities by either Party that are reflected by a significant increase or decrease in trunking demand for the succeeding forecast period.

4.4.3 The Parties will meet to review and reconcile their forecasts if their respective forecasts differ significantly from one another.

4.5 Trunk Facility Under Utilization.

At least once a year the Parties shall exchange trunk group measurement reports for trunk groups terminating to the other Party's network. In addition and from time to time, each Party will determine the required trunks for each of the other Party's trunk groups from the previous 12 months servicing data. Required trunks will be based on the State grade of service standard or the Joint Connection Plan referenced in Section 4.3.7. When a condition of excess capacity is identified, CenturyTel will facilitate a review of the trunk group existing and near term (3 to 6 months) traffic requirements with the customer for possible network efficiency adjustment.

4.6 Joint Trunk Planning Criteria.

In order to facilitate sound and economical network planning and provisioning, CenturyTel deployment of trunks for IDT use may be conditioned on (i) fill factors for trunks previously deployed for the IDT; (ii) compensation arrangements to reflect CenturyTel's and the IDT's proportionate use of the trunking; and (iii) whether the IDT ordered trunking is Currently Available.

4.7 Network Redesigns Initiated by CenturyTel.

CenturyTel will not charge IDT when CenturyTel initiates its own network redesigns/reconfigurations.

5. Indirect Network Connection.

5.1 Indirect Network Connection is intended to handle de minimis mutual traffic exchange until Local Traffic volumes grow to a point where it is economically advantageous to establish a direct connection.

5.2 The Parties agree to establish a direct connection for exchange of Local Traffic when any one of the following conditions is met for each month of a consecutive two-month period:

- a. Combined two-way traffic between two single switches of each Party reaches a DS-1 equivalent (200,000 combined minutes of use ("MOU") per month;
- b. Traffic originating from a single CenturyTel switch to a single IDT switch reaches 100,000 MOUs per month; or

- c. When either Party is assessed transiting costs by a third party and such charges associated with a single traffic exchange route exceed \$200.00 per month.

5.3 Neither Party shall deliver traffic destined to terminate at the other Party's end office via another LEC's end office except as provided for in Section 4.1.1

6. Common Channel Signaling.

6.1 Service Description.

The Parties will provide Common Channel Signaling (CCS) to one another via Signaling System 7 (SS7) network connection, where and as available, in the manner specified in FCC Order 95-187, in conjunction with all traffic exchange trunk groups. The Parties will cooperate on the exchange of all appropriate SS7 messages for local and intraLATA call set-up signaling, including ISDN User Part (ISUP) and Transaction Capabilities Application Part (TCAP) messages to facilitate full interoperability of all CLASS Features and functions between their respective networks. Any other SS7 message services to be provided using TCAP messages (such as data base queries) will be jointly negotiated and agreed upon.

6.2 Signaling Parameters.

All SS7 signaling parameters will be provided in conjunction with traffic exchange trunk groups, where and as available. These parameters include Automatic Number Identification (ANI), Calling Party Number (CPN), Privacy Indicator, calling party category information, originating line information, charge number, etc. Also included are all parameters relating to network signaling information, such as Carrier Information Parameter (CIP), wherever such information is needed for call routing or billing.

6.3 Privacy Indicators.

Each Party will honor all privacy indicators as required under applicable law.

6.4 Third Party Signaling Providers.

IDT may choose a third-party SS7 signaling provider.

6.5 Multi-Frequency Signaling

In the case where CCS is not available, in band Multi-Frequency (MF), wink start, E & M channel associated signaling with ANI will be provided by the Parties. Network signaling information, such as CIC/OZZ, will be provided wherever such information is needed for call routing or billing.

7. Network Management Controls.

Each Party shall provide a 24-hour contact number for their Network Traffic Management centers, so that Network Management issues may be exchanged.. A fax number must also be provided to facilitate event notifications for planned mass calling events. Additionally, the Parties agree to work cooperatively to ensure that any "mass calling events" will not degrade or cause loss of service to each other's end-users. Each Party shall maintain the capability of implementing industry standard network protective controls.

8. Number Portability (NP)

8.1 Local Number Portability (LNP)

8.1.1 LNP shall be provided in response to a porting request from either Party, consistent with applicable time periods and procedures established by the Act and applicable FCC regulations. The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable.

8.1.2 The rate that the Parties will charge each other for LNP service under the Agreement is set forth in Exhibit B.

9. Dialing and Rating Equivalence

If both CenturyTel and IDT have telephone numbers associated with the same rate center, and the IDT subscriber is physically located in that rate center then CenturyTel will provide for dialing and rating equivalency regardless of whether the called party is a CenturyTel subscriber or IDT subscriber.

For example, if an outbound call can be dialed on a 7-digit basis to a CenturyTel subscriber in a given rate center, then there is no need for dialing the corresponding call on a 1+10-digit basis when it is made to an IDT subscriber who is physically located in the same rate center. Similarly, if an outbound call is rated as a local call when the called party is a CenturyTel subscriber in a given rate center, then the equivalent outbound call will be rated as a local call when the called party is an IDT subscriber who is physically located in the same rate center.

ARTICLE I
SIGNATURE PAGE

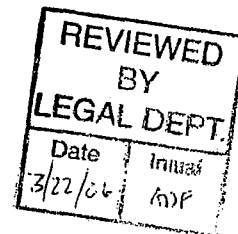
IN WITNESS WHEREOF, each Party has executed this Agreement. The Effective Date of this Agreement for such purposes will be established by the date of the final signature on this agreement subject to confirmation by Commission approval order.

CENTURYTEL OF MONTANA, INC.

By: Jeffrey S. Glover
Name: Jeffrey S. Glover
Title: V.P. Ext. Rel.
Date: 3-31-06

IDT AMERICA CORP.

By: James A. Courter
Name: James A. Courter
Title: CEO
Date: 3/23/06



APPENDIX A

RATES AND CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC

General. The rates contained in this Appendix A are the rates as defined in Article IV and are subject to change resulting from future Commission or other proceedings, or any appeal or other litigation.

Each Party will bill the other Party as appropriate:

A. Reciprocal Compensation

Local Traffic excluding Local Traffic that is also Information Access Traffic (If invoked pursuant to Article IV, Section 3.2.2)	TBD
--	-----

Local Traffic that is also Information Access Traffic	\$0.00
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B. Tandem Switching and Transiting **Not Applicable**

Tandem Switching:	Switched access tariff rate
Tandem Transport	Switched access tariff rate
Transport Termination	Switched access tariff rate

Transiting Charge:	
Tandem Switching:	Switched access tariff rate
Tandem Transport	Switched access tariff rate
Transport Termination	Switched access tariff rate

C. Initial Factors:

1. Initial CenturyTel Originated Local Traffic Factor	50%
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APPENDIX B

RATES AND CHARGES FOR NUMBER PORTABILITY

General. The rates contained in this Appendix B are as defined in Article IV, Section 8, and are subject to change resulting from future Commission or other proceedings, or any appeal or other litigation.

Non-Recurring Charges (NRCs) for Local Number Portability

Service Order Charge

Applicable CenturyTel Local Tariff
Non-Recurring Service Charge for
Business Lines

APPENDIX C

DEFINITIONS

1. General Definitions.

Except as otherwise specified herein, the following definitions shall apply to all Articles and Appendices contained in this Agreement. Additional definitions that are specific to the matters covered in a particular Article may appear in that Article. To the extent that there may be any conflict between a definition set forth in this Appendix C and any definition in a specific Article or Appendix, the definition set forth in the specific Article or Appendix shall control with respect to that Article or Appendix.

1.1 Access Service Request (ASR)

An industry standard form, which contains data elements and usage rules used by the Parties to add, establish, change or disconnect services or trunks for the purposes of Interconnection.

1.2 Act

The Telecommunications Act of 1996, Public Law 104-104 of the 104th United States Congress effective February 8, 1996.

1.3 Affiliate

A person, corporation or other legal entity that, directly or indirectly, owns or controls a Party, or is owned or controlled by, or is under common ownership or control with a Party.

1.4 Answer Supervision

An off-hook supervisory signal.

1.5 Applicable Law

All laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, and approvals of any Governmental Authority, which apply or relate to the subject matter of this Agreement.

1.6 Automatic Location Identification/Data Management System (ALI/DMS)

The emergency services (E-911/911) database containing customer location information (including name, address, telephone number, and sometimes special information from the local service provider) used to process subscriber access records into Automatic Location Identification (ALI) records.

1.7 Automated Message Accounting (AMA)

The structure inherent in switch technology that initially records telecommunication message information. AMA format is contained in the Automated Message Accounting document, published by Telcordia Technologies as GR-1100-CORE, which defines the industry standard for message recording.

1.8 Automatic Number Identification (ANI)

The number transmitted through the network identifying the calling party's billing number.

1.9 **Basic Local Exchange Service**

Voice grade access to the network that provides the ability to place and receive calls; touch-tone service; access to operator services; access to directory assistance; access to emergency services (E911); access to telephone relay service (TRS); access to interexchange carriers of the customer's choice; standard white pages directory listing; and toll blocking for low-income consumers participating in Lifeline (subject to technical feasibility).

1.10 **Bill-and-Keep Arrangement**

A compensation arrangement whereby the Parties do not render bills to each other for the termination of Local Traffic specified in this Agreement and whereby the Parties terminate local exchange traffic originating from end-users served by the networks of the other Party without explicit charging among or between said carriers for such traffic exchange.

1.11 **Bona Fide Request (BFR)**

Process intended to be used when requesting customized service orders for certain services, features, capabilities or functionality defined and agreed upon by the Parties as services to be ordered as BFRs.

1.12 **Business Day**

Monday through Friday, except for holidays on which the non-priority U.S. mail is not delivered.

1.13 **Centralized Message Distribution System (CMDS)**

The billing record and clearing house transport system that the Regional Bell Operating Companies (RBOCs) and other incumbent LECs use to efficiently exchange out collectibles and in collectibles as well as Carrier Access Billing System (CABS) records.

1.14 **Central Office (CO)**

A telephone company building where customer lines are joined to a switch or switches for connecting customers to each other, for Local and non-Local Traffic.

1.15 **Central Office Switch**

A switch used to provide telecommunications services including (1) End Office Switches which are Class 5 switches from which end-user Exchange Services are directly connected and offered, and (2) Tandem Office Switches which are Class 4 switches used to connect and switch trunk circuits between and among central office switches. Central office switches may be employed as combination end office/tandem office switches (combination Class 5/Class 4).

1.16 **CenturyTel Service Guide**

The CenturyTel Service Guide, which contains CenturyTel's operating procedures for ordering, provisioning, trouble reporting and repair, for resold services. Except as specifically provided otherwise in this Agreement, service ordering, provisioning, billing and maintenance shall be governed by the CenturyTel Service Guide, which may be amended from time to time by CenturyTel as needed.

1.17 **Certificate of Operating Authority**

IDT must represent and warrant to CenturyTel that it is a certified provider of local exchange service in the State and authorized within the CenturyTel local service area. IDT will provide a copy of its Certificate of Operating Authority or other evidence of its status to CenturyTel upon request. IDT will notify CenturyTel if its certificate has been revoked.

1.18 **CLASS**

CLASS is an acronym for Custom Local Area Signaling Services. It is based on the availability of common channel signaling. CLASS consists of number-translation services such as call-forwarding and caller identification, available within a local exchange. CLASS is a service mark of Bellcore, now Telcordia.

1.19 **CLLI Codes**

Common Language Location Identifier Codes.

1.20 **Commission**

The State Public Service or Public Utilities Commission, as applicable.

1.21 **Common Channel Signaling (CCS)**

A high-speed specialized packet-switched communications network that is separate (out-of-band) from the public packet-switched and message networks. CCS carries addressed signaling messages for individual trunk circuits and/or database-related services between Signaling Points in the CCS network using SS7 signaling protocol.

1.22 **Competitive Local Exchange Carrier (CLEC)**

Any company or person authorized to provide local exchange services in competition with an ILEC.

1.23 **Compliance**

Environmental and safety laws and regulations based upon a Federal regulatory framework, with certain responsibilities delegated to the States. An environmental/safety compliance program may include review of applicable laws/regulations, development of written procedures, training of employees and auditing.

1.24 **Conversation Time**

The time that both Parties' equipment is used for a completed call, measured from the receipt of Answer Supervision to the receipt of Disconnect Supervision.

1.25 **CTOC or CenturyTel**

The CenturyTel Operating Company in the State that is a Party to this Agreement.

1.26 **Currently Available**

Existing as part of CenturyTel's network at the time of the requested order or service and does not include any service, feature, function or capability that CenturyTel either does not provide to itself or to its own end users, or does not have the capability to provide.

1.27 **Customer**

The Party receiving service from the other. CenturyTel or IDT, depending on the context and which Party is receiving the service from the other Party.

1.28 **Customer Service Record Search**

Applied to LSR when CLEC requests a customer service record search prior to account conversion from CenturyTel or from another CLEC. Search typically is for basic account information, listing/directory information, service and equipment listing, and billing information. Applied on a per requested loop basis.

1.29 **Dedicated Transport**

An Unbundled Network Element that is purchased for the purpose of transporting Telecommunications Services between designated Central Offices. Dedicated Transport may only extend between two Central Offices.

1.30 **Disconnect Supervision**

An on-hook supervisory signal end at the completion of a call.

1.31 **DS-1**

A service carried at digital signal rate of 1.544 Mbps.

1.32 **DS-3**

A service carried at digital signal rate of 44.736 Mbps.

1.33 **Electronic File Transfer**

A system or process that utilizes an electronic format and protocol to send/receive data files.

1.34 **E-911 Service**

A method of routing 911 calls to a PSAP that uses a customer location database to determine the location to which a call should be routed. E911 service includes the forwarding of the caller's Automatic Number Identification (ANI) to the PSAP where the ANI is used to retrieve and display the Automatic Location Identification (ALI) on a terminal screen at the answering attendant's position. It usually includes selective routing.

1.35 **Exchange Message Record (EMR)**

An industry standard record used to exchange telecommunications message information among CLECs for billable, non-billable, sample, settlement and study data. EMR format is defined in BR-010-200-010 CRIS Exchange Message Record, published by Telcordia Technologies.

1.36 **Exchange Service**

All basic access line services, or any other services offered to end users which provide end users with a telephonic connection to, and a unique telephone number address on, the Public Switched Telecommunications Network (PSTN), and which enable such end users to place or receive calls to all other stations on the PSTN.

1.37 **Facility**

All buildings, equipment, structures and other items located on a single site or contiguous or adjacent sites owned or operated by the same persons or person as used in Article III, Section 46.

1.38 **FCC**

The Federal Communications Commission.

1.39 **Generator**

Under the Resource Conservation Recovery Act (RCRA), the person whose act produces a hazardous waste (40 CFR 261) or whose act first causes a hazardous waste to become subject to regulation. The generator is legally responsible for the proper management and disposal of hazardous wastes in accordance with regulations (see reference in Article III, Section 46).

1.40 **Hazardous Chemical**

As defined in the U.S. Occupational Safety and Health Act (OSHA) hazard contamination standard (29 CFR 1910.1200), any chemical which is a health hazard or physical hazard.

1.41 **Hazardous Waste**

As described in the Resource Conservation Recovery Act (RCRA), a solid waste(s), which may cause, or significantly contribute to an increase in mortality or illness or pose a substantial hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed because of its quantity, concentration or physical or chemical characteristics.

1.42 **Imminent Danger**

As described in the Occupational Safety and Health Act and expanded for environmental matters, any conditions or practices at a facility which are such that a danger exists which could reasonably be expected to cause death or serious harm or significant damage to the environment or natural resources.

1.43 **Incumbent Local Exchange Carrier (ILEC)**

Any local exchange carrier that was as of February 8, 1996, deemed to be a member of the Exchange Carrier Association as set forth in 47 C.F.R. §69.601(b) of the FCC's regulations.

1.44 **Indirect Network Connection**

The Interconnection of the Parties' networks for exchange of Local Traffic via a tandem switch belonging to a third party.

1.45 **Information Access Traffic**

Information Access Traffic, for the purpose of this Agreement, is traffic (excluding CMRS traffic) that is transmitted to or returned from the Internet at any point during the duration of the transmission between the Parties. Information Access Traffic is not Local Traffic unless the traffic is between an end-user and an ISP physically located in the same CenturyTel Local Calling Area. The term Information Access Traffic does not include transmission of voice

telecommunications traffic regardless of whether it is delivered to an ISP and regardless of whether it is carried at any point on facilities via Internet protocol.

1.46 **Information Service Provider or "ISP"**

A provider of Information Service, as defined in 47 U.S.C. 153(20). Information Service Provider includes, but is not limited to, Internet Service Providers.

1.47 **Initial Service Order**

A charge applied to each LSR of Unbundled Loops with the exception of Subsequent Service Order changes to existing CLEC accounts.

1.48 **Interconnection Facility**

See "Internetwork Facilities".

1.49 **Interconnection Point (IP)**

The physical point on the network where the two parties interconnect. The IP is the demarcation point between ownership of the transmission facility.

1.50 **Interexchange Carrier (IXC)**

A telecommunications service provider authorized by the FCC to provide interstate long distance communications services between LATAs and is authorized by the State to provide inter- and/or intraLATA long distance communications services within the State.

1.51 **Internetwork Facilities**

The physical connection of separate pieces of equipment, transmission facilities, etc., within, between and among networks, for the transmission and routing of exchange service and exchange access.

1.52 **ISDN User Part (ISUP)**

A part of the SS7 protocol that defines call setup messages and call takedown messages.

1.53 **Line Side**

Refers to an end office switch connection that has been programmed to treat the circuit as a local line connected to an ordinary telephone station set. Line side connections offer only those transmission and signaling features appropriate for a connection between an end office and an ordinary telephone set.

1.54 **Local Access and Transport Area (LATA)**

A geographic area for the provision and administration of communications service; i.e., intraLATA or interLATA.

1.55 **Local Calling Area**

Local Calling Area includes the local exchange area, and any mandatory Extended Area Service (EAS) exchanges, as defined in CenturyTel local exchange tariffs.

1.56 **Local Exchange Carrier (LEC)**

Any company certified by the Commission to provide local exchange telecommunications service. This includes the Parties to this Agreement.

1.57 **Local Exchange Routing Guide (LERG)**

The Telcordia Technologies reference customarily used to identify NPA-NXX routing and homing information, as well as network element and equipment designation.

1.58 **Local Number Portability (LNP)**

The ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

1.59 **Local Provider**

A carrier authorized to provide local telecommunications service in the State.

1.60 **Local Service Request (LSR)**

The industry standard forms and supporting documentation used for ordering local services.

1.61 **Local Traffic**

Local Traffic is traffic (excluding CMRS traffic) that is originated and terminated within the CenturyTel Local Calling Area, or mandatory Extended Area Service (EAS) area, as defined in CenturyTel's local exchange tariffs. Local Traffic does not include optional local calling (i.e., optional rate packages that permit the end-user to choose a Local Calling Area beyond the basic exchange serving area for an additional fee), referred to hereafter as "optional EAS". Local Traffic includes Information Access Traffic to the extent that the end user and the ISP are physically located in the same CenturyTel Local Calling Area.

1.62 **Main Distribution Frame (MDF)**

The distribution frame used to interconnect cable pairs and line trunk equipment terminating on a switching system.

1.63 **Meet Point Billing (MPB)**

Refers to an arrangement whereby two LECs (including a LEC and CLEC) jointly provide Switched Access Service to an Interexchange Carrier, with each LEC (or CLEC) receiving an appropriate share of the revenues from the IXC as defined by their effective access Tariffs.

1.64 **Mid Span Fiber Meet**

An Interconnection architecture whereby two carriers' fiber transmission facilities meet at a mutually agreed upon IP.

1.65 **Multiple Exchange Carrier Access Billing (MECAB)**

Refers to the document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Telcordia Technologies as Special

Report SR-BDS-000983, contains the recommended guidelines for the billing of an access service provided by two or more LECs, or by one LEC in two or more states within a single LATA.

1.66 **Multiple Exchange Carriers Ordering and Design Guidelines for Access Services - Industry Support Interface (MECOD)**

A document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Telcordia Technologies as Special Report SR-STIS-002643, establishes methods for processing orders for access service that is to be provided by two or more LECs.

1.67 **911 Service**

911 and E911 provides an End User access to the applicable emergency service bureau, where available, by dialing a 3-digit universal telephone number (911).

1.68 **North American Numbering Plan (NANP)**

The system of telephone numbering employed in the United States, Canada, and Caribbean countries that employ NPA 809.

1.69 **Numbering Plan Area (NPA)**

Also sometimes referred to as an area code, is the three-digit indicator which is defined by the "A", "B", and "C" digits of each 10-digit telephone number within the NANP. Each NPA contains 800 possible NXX Codes. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized telecommunications service that may be provided across multiple geographic NPA areas. 800, 900, 700, and 888 are examples of Non-Geographic NPAs.

1.70 **NXX, NXX Code, Central Office Code or CO Code**

The three-digit switch entity indicator that is defined by the "D", "E", and "F" digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.

1.71 **Owner or Operator**

As used in OSHA regulations, owner is the legal entity, including a lessee, which exercises control over management and record keeping functions relating to a building or facility. As used in the Resource Conservation and Recovery Act (RCRA), Operator means the person responsible for the overall (or part of the) operations of a facility.

1.72 **Party/Parties**

CenturyTel and/or IDT.

1.73 **Pole Attachment**

A Party's use of space on telephone poles belonging to the other Party for attachment of cables and related materials to provide services in accordance with the terms and conditions of this Agreement.

1.74 **Provider**

The Party providing service to the other. CenturyTel or IDT depending on the context and which Party is providing the service to the other Party.

1.75 **Public Safety Answering Point (PSAP)**

An answering location for 911 calls originating in a given area. A PSAP may be designated as Primary or Secondary, which refers to the order in which calls are directed for answering. Primary PSAPs respond first; Secondary PSAPs receive calls on a transfer basis only, and generally serve as a centralized answering location for a particular type of emergency call. PSAPs are staffed by employees of Emergency Response Agencies (ERAs) such as police, fire or emergency medical agencies or by employees of a common bureau serving a group of such entities.

1.76 **Qualifying Service**

A Qualifying Service is a telecommunications service that competes with a telecommunications service that has been traditionally the exclusive or primary domain of incumbent local exchange carriers, including, but not limited to, local exchange service (such as "Plain Old Telephone Service"), and access service (such as DSL services and high-capacity circuits).

1.77 **Rate Center**

The specific geographic point and corresponding geographic area that are associated with one or more particular NPA-NXX Codes that have been assigned to a LEC for its provision of Exchange Services. The geographic point is identified by a specific Vertical and Horizontal (V&H) coordinate that is used to calculate distance-sensitive end user traffic to/from the particular NPA-NXXs associated with the specific Rate Center.

1.78 **Right-of-Way (ROW)**

The right to use the land or other property of another Party to place poles, conduits, cables, other structures and equipment, or to provide passage to access such structures and equipment. A ROW may run under, on, or above public or private property (including air space above public or private property) and may include the right to use discrete space in buildings, building complexes, or other locations.

1.79 **Routing Point**

Denotes a location that a LEC has designated on its network as the homing (routing) point for traffic that terminates to Exchange Services provided by the LEC that bear a certain NPA-NXX designation. The Routing Point is used to calculate airline mileage for the distance-sensitive transport element charges of Switched Access Services. Pursuant to Telcordia Technologies Practice BR795-100-100, the Routing Point may be an end office location, or a "LEC Consortium Point of Interconnection." The Routing Point must be in the same LATA as the associated NPA-NXX.

1.80 **Service Control Point (SCP)**

Service Control Point (SCP) means a node in the CCS network to which information requests for service handling, such as routing, are directed and processed. The SCP is a real time database system that, based on a query from a Service Switching Point (SSP), performs subscriber or application-specific service logic and then sends instructions back to the SSP on how to continue call processing.

1.81 **Service Switching Point (SSP)**

A Service Switching Point (SSP) is a Signaling Point (SP) that can launch queries to databases and receive/interpret responses in order to provide specific customer services.

1.82 **Signaling Point (SP)**

A node in the CCS network that originates and/or receives signaling messages, or transfers signaling messages from one signaling link to another, or both.

1.83 **Signaling System 7 (SS7)**

The signaling protocol, Version 7, of the CCS network, based upon American National Standards Institute (ANSI) standards.

1.84 **Signaling Transfer Point (STP)**

Signaling Transfer Point (STP) means a Packet Switch that performs message routing functions and provides information for the routing of Common Channel Signaling (CCS) messages.

1.85 **State**

The State in which Services are to be provided under the Agreement.

1.86 **Subsidiary**

A corporation or other legal entity that is majority owned by a Party.

1.87 **Subsequent Service Order**

Applied to LSRs requesting a service change to an existing unbundled account (no CLEC transfer). For disconnect-only LSRs, no NRC will be applied.

1.88 **Synchronous Optical Network (SONET)**

Synchronous electrical (STS) or optical channel (OC) connections between LECs.

1.89 **Switched Access Service**

The offering of facilities for the purpose of the origination or termination of traffic to or from Exchange Service customers in a given area pursuant to a switched access tariff. Switched Access Services include: Feature Group A, Feature Group B, Feature Group C, Feature Group D, 800 access and 900 access services.

1.90 **Tandem or Tandem Switch**

Tandem means to connect in series. A Tandem or Tandem Switch connects one trunk to another. It is an intermediate (Class 4) switch between an originating telephone call and the final destination of the call.

1.91 **TDM Technology**

Time Division Multiplexing. A method of multiplexing in which a common transmission path is shared by a number of channels on a cyclical basis by enabling each channel to use the path exclusively for a short time slot.

1.92 **Telcordia Technologies**

A wholly owned subsidiary of Science Applications International Corporation (SAIC). The organization conducts research and development projects for its owners, including development of new telecommunications services. Telcordia Technologies also provides certain centralized technical and management services for the regional holding companies and also provides generic requirements for the telecommunications industry for products, services and technologies.

1.93 **Telecommunications Services**

The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

1.94 **Third Party Contamination**

Environmental pollution that is not generated by the LEC or IDT but results from off-site activities impacting a facility.

1.95 **Transit Traffic**

Transit Traffic is traffic originating on IDT's network that is switched and/or transported by CenturyTel and delivered to a third party's network.

1.96 **Trunk Side**

Refers to a central office switch connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example, to another central office switch. Trunk side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone sets.

1.97 **Undefined Terms**

Undefined terms may appear in this Agreement. Parties acknowledge and agree that any such terms shall be construed in accordance with CenturyTel's tariffs, or, if not defined therein, under customary usage in the telecommunications industry as of the effective date of this Agreement.

1.98 **Wire Center**

A building or space within a building that serves as an aggregation point on a LEC's network, where transmission facilities and circuits are connected or switched.

Exhibit C

Service Date: July 11, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the Application of	)	UTILITY DIVISION
IDT America, Corp.)	
and	)	DOCKET NO. D2006.4.57
CenturyTel of Montana, Inc.)	
Pursuant to Section 252(e) of the	)	ORDER NO. 6752
Telecommunications Act of 1996 for Approval)	
of their Interconnection and Resale Agreement)	

FINAL ORDER

Introduction and Procedural Background

1. On February 8, 1996, the Telecommunications Act of 1996 (1996 Act)¹ was signed into law, ushering in a sweeping reform of the telecommunications industry that is intended to bring competition to the local exchange markets. The 1996 Act sets forth methods by which local competition may be encouraged in historically-monopolistic local exchange markets. The 1996 Act requires companies to negotiate agreements with new competitive entrants in their local exchange markets. 47 U.S.C. §§ 251 and 252.

2. CenturyTel of Montana, Inc. ("CenturyTel") entered into a voluntarily negotiated interconnection agreement with IDT America, Corp. ("IDT") for interconnection according to the 1996 Act. CenturyTel filed the parties' Traffic Exchange Agreement (Agreement) with the Montana Public Service Commission (Commission) on April 20, 2006.

3. The Commission issued a Notice of Application for Approval of the Interconnection Agreement and Opportunity to Intervene and Comment on April 24, 2006, giving public notice of the requirements that the Commission must approve the Agreement unless it finds the Agreement discriminates against other telecommunications carriers not parties to the agreement, or is not consistent with the public interest, convenience and necessity. The notice stated that no public hearing was contemplated unless requested by an interested party by May 12, 2006. The notice further stated that interested persons could submit limited comments

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.).

on whether the agreements met these requirements no later than May 22, 2006.

4. No hearing has been requested and no comments or requests for intervention were received.

Applicable Law and Commission Decision

5. The standards for approving an interconnection agreement differ, depending on whether the agreement has been voluntarily negotiated or has been arbitrated by a state commission. 47 U.S.C. § 252(e)(2). The Agreement submitted for approval in this proceeding was negotiated voluntarily by the parties and thus must be reviewed according to the provisions in 47 U.S.C. § 252(e)(2)(A).

6. Section 252(e)(4) of the 1996 Act provides that a negotiated agreement submitted for a state commission's approval must be approved or rejected within 90 days or it will be deemed approved. Thus, Commission approval or rejection according to the standards set forth in the 1996 Act must be issued by July 24, 2006, 90 days following the submission of the Traffic Exchange Agreement for Commission approval.

7. The Commission must approve or reject the agreement, with written findings as to any deficiencies. 47 U.S.C. § 252(e)(1). Section 252(e)(2)(A) prescribes the grounds for rejection of an agreement reached by voluntary negotiation:

(2) GROUND FOR REJECTION. – The State commission may only reject –

(A) an agreement (or any portion thereof) adopted by negotiation under [47 U.S.C. § 252(a)] if it finds that

(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity[.]

8. Notwithstanding the limited grounds for rejection in 47 U.S.C. § 252(e)(2)(A), the Commission's authority is preserved in § 252(e)(3) to establish or enforce other requirements of Montana law in its review of arbitrated or negotiated agreements, including requiring compliance with state telecommunications service quality standards or requirements. Such compliance is subject to § 253 of the 1996 Act, which does not permit states to impose any statutes, regulations, or legal requirements that prohibit or have the effect of prohibiting market entry.

9. Unlike an agreement reached through arbitration, a voluntarily negotiated agreement need not comply with standards set forth in §§ 251(b) and (c). 47 U.S.C. §§ 251(b), 252(c) and 252(a)(1) of the Act permit parties to agree to rates, terms and conditions for interconnection that may not be deemed just, reasonable and nondiscriminatory, and that are not determined according to the pricing standards included in § 252(c) of the Act, as would be required in the case of arbitrated rates set by the Commission.

10. By approving this Agreement, the Commission does not intend to imply that it approves of all the terms and conditions included in the Agreement and makes no findings herein on the appropriateness of many of the terms and conditions. Our interpretation of the 1996 Act is that §§ 252(a) and (c) prevent the Commission from addressing such issues in this proceeding.

11. No comments have been received that indicate the Agreement does not comply with federal law as cited above or with state telecommunications requirements. The Montana Consumer Counsel, who represents the consumers of the State of Montana, has not intervened in this approval proceeding, and has not filed comments to indicate that any portion of the Agreement is not consistent with the public interest, convenience and necessity. There have been no objections raised that the Agreement discriminates improperly or is not consistent with the public interest, convenience and necessity.

12. The Commission finds that the terms in the Agreement appear to conform to the standards required by the Act and should be approved. In approving this Agreement, the Commission is guided by provisions in state and federal law that have been enacted to encourage the development of competitive telecommunications markets. Section 69-3-802, MCA, for example, states that it is the policy of the State of Montana to encourage competition in the telecommunications industry and to provide for an orderly transition to a competitive market environment.

13. CenturyTel and IDT can agree that nothing in their Agreement prohibits certain conduct, but if that conduct otherwise violates the law, the provision in the Agreement that sanctions such conduct is void. §§ 28-2-604, 28-2-701, 28-2-702, MCA. Any provision or term of this Agreement that is in conflict with the law, whether or not specifically addressed by the Commission, is rejected as a matter of law and not in the public interest.

Conclusions of Law

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. CenturyTel is a telecommunications carrier providing regulated local exchange and other telecommunications services in the State of Montana. Section 69-3-101, MCA.
2. Before providing services in Montana, IDT initially will be required to register with the Commission as a telecommunications provider and to provide the requested information to the Commission, if it has not already done so. § 69-3-805, MCA.
3. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.
4. The United States Congress enacted the Telecommunications Act of 1996 to encourage competition in the telecommunications industry. Congress gave responsibility for much of the implementation of the 1996 Act to the states, to be handled by the state agency with regulatory control over telecommunications carriers. *See generally*, the Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 56 (*amending scattered sections of the Communications Act of 1934*, 47 U.S.C. §§ 151, *et seq.*). The Montana Public Service Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.
5. Adequate public notice and an opportunity to be heard has been provided to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.
6. The Commission has jurisdiction to approve the agreement negotiated by the parties and submitted to the Commission for approval according to § 252(e)(2)(A). Section 69-3-103, MCA.
7. Approval of interconnection agreements by the Commission is subject to the requirements of federal law as set forth in 47 U.S.C. § 252. Section 252(e) limits the

Commission's review of a negotiated agreement to the standards set forth therein for rejection of such agreements. Section 252(e)(4) requires the Commission to approve or reject the Agreement by July 24, 2006, or the Agreement will be deemed approved.

8. The Commission may reject a portion of a negotiated agreement and approve the remainder of the agreement if such action is consistent with the public interest, convenience and necessity and does not discriminate against a carrier not a party to the agreement. 47 U.S.C. § 252(e)(2)(A).

Order

THEREFORE, based upon the foregoing, it is ORDERED that the Agreement of the parties submitted to this Commission for approval pursuant to the 1996 Act is approved subject to the following condition:

The parties shall file subsequent amendments to the Agreement with the Commission for approval pursuant to the 1996 Act.

DONE AND DATED this 6th day of July 2006, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman

BRAD MOLNAR, Vice Chairman

DOUG MOOD, Commissioner

ROBERT H. RANEY, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

Exhibit D

P.O. Box 9901
Vancouver, WA 98668-8701
Tel 360 905 5958
Fax 360 905 5953

calvin.simshaw@centurytel.com



Calvin K. Simshaw
Vice President
Associate General Counsel - Regulatory

VIA OVERNIGHT MAIL AND E-MAIL

Ana Bataille
IDT America, Inc.
520 Broad Street
Newark New Jersey 07102

Chana Goldberger
IDT America, Inc.
520 Broad Street
Newark New Jersey 07102

Re: Request to Port Numbers in Montana

Dear Ms. Bataille and Ms. Goldberger:

The Traffic Exchange Agreement Between CenturyTel of Montana, Inc. and IDT America, Corp. in the State of Montana (the "Agreement") was recently approved by the Montana Public Service Commission. Presumably pursuant to the Agreement, IDT has submitted requests that five local numbers be ported from CenturyTel to IDT. The requests were received on July 11 and 12, 2006. While it is true that the Agreement does contemplate and provide for the porting of numbers from CenturyTel to IDT, CenturyTel must decline to process the porting requests at this time for the reasons stated herein.

IDT entered the Agreement "...in its capacity as a certified Provider of local two-way wireline dial-tone service..." (see first paragraph of the Agreement). The intent of the Agreement was to cover arrangements concerning IDT's provision of local service to its end user customers. This is confirmed by the first sentence of Article I. SCOPE AND INTENT of the Agreement, which provides:

Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within the State for purposes of the connection and the exchange of Local Traffic between their respective end user customers.

Therefore the arrangements provided by CenturyTel under the Agreement (including local number portability in Article IV. Section 8) are to be related to end user customers of IDT. CenturyTel has reason to believe that the above-referenced number porting requests submitted by IDT are not related to IDT end users. It appears to CenturyTel that the number porting requests

are likely related to end user customers of another company who does not have an interconnection agreement with CenturyTel. Provision of number porting under these circumstances would be outside the scope of the Agreement and inappropriate.

If you feel that CenturyTel is mistaken in this regard, please provide information that would validate that the number porting requests actually do relate to IDT end user customers and not the end users of another company. Otherwise, CenturyTel must continue to decline to process the number porting requests submitted by IDT.

I may be reached at (360) 905-5958 or calvin.simshaw@centurytel.com to discuss this matter.

Sincerely,

Calvin K. Simshaw
Assoc. Gen. Counsel

cc: Jackie Phillips

Exhibit E



IDT America, Inc.
520 Broad Street
Newark, New Jersey 07102

July 19, 2006

VIA OVERNIGHT MAIL AND EMAIL

Calvin K. Simshaw
Associate General Counsel - Regulatory
CenturyTel
P.O. Box 9901
Vancouver, WA 98668-8701
Tel 360-905-5958
Fax 360-905-5953
calvin.simshaw@centurytel.com

CenturyTel, Inc.
Attention: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203

**Re: CenturyTel's Failure to Comply with its Local Number Portability
Obligations in Montana**

Dear Mr. Simshaw:

This letter is in response to your letter to IDT America, Corp ("IDT") (undated and received via overnight mail on July 17, 2006) refusing to complete IDT's number porting requests. CenturyTel of Montana, Inc.'s ("CenturyTel") refusal to properly port numbers violates CenturyTel's local number portability ("LNP") obligations under the federal Communications Act of 1934, as amended ("Act"), the rules and regulations of the Federal Communications Commission ("FCC"), and the mutual Traffic Exchange Agreement ("MTE") between CenturyTel and IDT. ***CenturyTel must rectify this problem immediately or IDT will avail itself of any and all remedies available to it under the law.***

Duty to Port Numbers. CenturyTel has an expressed obligation under the MTE to port numbers to IDT. Section 8.1 of Article IV of the MTE obligates CenturyTel to port numbers when a port request is initiated by IDT. Specifically, Section 8.1.1 provides:

388420-2

LNP *shall* be provided in response to a porting request from either Party, consistent with applicable time periods and procedures established by the Act and applicable FCC regulations. The Parties agree that they shall develop and deploy LNP in accordance with the Act, such binding FCC and State mandates, and industry standards, as may be applicable. (Emphasis added)

Section 13 of Article III of the MTE further provides:

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

In addition, regardless of its contractual obligation, CenturyTel has a duty to provide number portability pursuant to §251(b)(2) of the Act.^{1/} LNP is defined as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”^{2/} When CenturyTel receives a port request from IDT, CenturyTel must port the number expeditiously “without impairment of quality, reliability, or convenience.” Thus, when one of CenturyTel’s customers chooses to switch his telephone service from CenturyTel to IDT and wants to keep his telephone number, CenturyTel is required to port the number so long as IDT has a footprint in the rate center.

CenturyTel’s sole reason for refusing to implement IDT’s port requests is based on a mistaken “belief that the porting requests submitted by IDT are not related to IDT end users.” CenturyTel has no right to refuse to port numbers based on the identity of IDT’s end users. CenturyTel’s refusal to port its customers’ numbers is a violation of the law and is a breach of the MTE.

CenturyTel fails to understand the legal definition of “end users.” IDT’s provision of telecommunications service to its customers is the provision of service to an end user. The FCC has explicitly stated that the provision of wholesale telecommunications services is considered the provision of telecommunications services to an end user by a telecommunications carrier.^{3/} When an entity purchases services from telecommunications carriers such as IDT on a wholesale basis it is a business end user. It is IDT’s status as a “telecommunications carrier” and its provision of local exchange

^{1/} 47 U.S.C. § 251(b)(2).

^{2/} 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(l). Notably, the definition of LNP contained in Appendix C, Section 1.58 of the MTE is identical to the definitions of LNP in the Act and FCC rules.

^{3/} *Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended*, 11 FCC Rcd 21905, ¶ 263 (1996) (“the definition of telecommunications services is intended to clarify that telecommunications services are common carrier services, which include wholesale services to other carriers”).

services that determines its entitlement to LNP processing under the Act.^{4/} As recognized by the FCC, wholesale entities such as VoIP service providers must purchase telecommunications services from regulated telecommunications carriers like IDT in order to originate and terminate calls on the public switched network, access 911 services, and obtain numbering resources.^{5/} CenturyTel cannot refuse to fulfill contract or legal obligations to consumers and co-carriers such as IDT because of the type of end user IDT serves. This is discrimination.

Numerous states, including New York, Illinois, Iowa, and Ohio, have ruled that an entity providing services to a wholesale provider is deemed to be a telecommunications carrier with rights under Sections 251 and 252.^{6/} These state commissions found that the services provided to the wholesale service provider were well within the scope of what telecommunications carriers commonly do and are “no different than [the services] performed by other competitive local exchange carriers.”^{7/} As a result, these state commissions determined that telecommunications carriers offering services to wholesale service providers were entitled to interconnection and other rights under Sections 251 and 252 because those telecommunications carriers were “acting in a role no different than other telecommunications carriers whose network could interconnect with [ILECs] so that traffic is terminated to and from each network and across networks.”^{8/}

In addition, by questioning the identity of IDT’s customers CenturyTel is engaging in improper re-verification. Under the FCC’s rules, the role of the executing carrier is clearly defined:

^{4/} *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 785 (1997) (finding telecommunications services “include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers”).

^{5/} See, e.g., *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245, ¶ 38 (2005) (noting that VoIP service providers obtain 911 services from competitive local exchange carriers); *IP-Enabled Services*, 19 FCC Rcd 4863, ¶ 12 (2004) (recognizing that VoIP service providers obtain telecommunications services from telecommunications carriers in order to provide services to the VoIP service provider’s customers).

^{6/} Case 05-C-0170, *Petition of Sprint Communications Company L. P., Pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration to Establish an Intercarrier Agreement with Independent Companies*, Order Resolving Arbitration Issues (N.Y.P.S.C. May 24, 2005) (“*New York Order*”), on appeal *Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ Action No. 05-CV-6502 (CJS) (MWP) (W.D.N.Y. filed Sept. 26, 2005); Case Nos. 050259, et al., *Cambridge Telephone Company, et al. Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties under §§ 251(b) and (c) of the Federal Telecommunications Act* (I.C.C. July 13, 2005) (“*Illinois Order*”); Docket No. ARB-05-02, *Arbitration of Sprint Communications Co. v. Ace Communications Group, et al.*, Order on Rehearing (I.U.B. Nov. 28, 2005) (“*Iowa Order*”); Case Nos. 04-1494-TP-UNC, et al., *Application and Petition in Accordance with Section II.A.2.b of the Local Service Guidelines Filed by: The Champaign Telephone Co., Telephone Services Co., the Germantown Independent Telephone Co., and Doylestown Telephone Co.*, Finding and Order (P.U.C.O. Jan. 26, 2005) (“*Ohio Order*”), reh’g denied in pertinent part, Order on Rehearing (P.U.C.O. Apr. 13, 2005).

^{7/} *New York Order* at 5.

^{8/} *Ohio Order* at 4-5, ¶ 7.

An executing carrier [here CenturyTel] shall not verify the submission of a change in a subscriber's selection of a provider of telecommunications service received from a submitting carrier [IDT]. For an executing carrier, compliance with the procedures described in this part shall be defined as prompt execution, without any unreasonable delay, of changes that have been verified by a submitting carrier.^{9/}

The FCC has confirmed that executing carriers cannot delay provider change requests even if the customer's name on the port request does not match the name in the executing LEC's database.^{10/} The FCC deems this type of behavior to be improper re-verification and clarified that such behavior creates a *de facto* freeze of the provider change and is therefore anti-competitive.

Accordingly, when CenturyTel receives IDT's porting request in the form of a local service request ("LSR"), it may verify the customer's account information to ensure the name, address, telephone number, etc. are correct. It may also confirm that the number is eligible for porting and that IDT has a footprint or numbering resources in the rate center. Beyond that, CenturyTel's only duty is to port the number to IDT as expeditiously as possible.

Duty to Route Calls to Ported Numbers. The FCC has emphasized that "[r]egardless of a carrier's obligation to provide number portability, all carriers have a duty to *route* calls to ported numbers. In other words, carriers must ensure that their call routing procedures do not result in dropped calls to ported numbers."^{11/}

What this means is that when a subscriber has chosen to take his number with him to IDT, CenturyTel must route to IDT calls placed by your customers to that number. The identity of IDT's end users is irrelevant. As the FCC stated, it is essential that customers not experience "any degradation in service quality or network reliability when customers switch carriers."^{12/} When a ported customer cannot receive calls originated by CenturyTel customers or a porting request is denied by CenturyTel, the customer is experiencing exactly that sort of degradation.

^{9/} 47 CFR § 64.1120(a)(2).

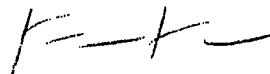
^{10/} *In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, LEC Coalition Request for Declaratory Ruling Regarding Carrier Change Verification*, CC Docket No. 94-129, DA 05-1618 (2005); see also, *Public Notice Consumer & Governmental Affairs Bureau Seeks Comment on an Application for Review Filed by the Rural Local Exchange Carriers*, CC Docket 94-129, DA 05-3131 (2005).

^{11/} CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of InterIsland, Inc., Apparent Liability for Forfeiture, DA 04-1303, 19 FCC Rcd 8543 ¶ 4 (rel. May 13, 2004).

^{12/} *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 ¶ 48 (1996). See also, 47 C.F.R. § 52.23(a)(5).

It is IDT's expectation that CenturyTel will resolve this issue immediately by honoring all pending ports upon receipt of this letter and executing all future port requests within the required time interval for porting numbers. Please do not hesitate to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Kaplan', with a stylized flourish at the end.

Kenneth M. Kaplan, Esq.
IDT Corporation

cc: Carrier Relations
CenturyTel
805 Broadway
Vancouver, WA 98660

Cherie Kiser, Esq.
Mintz Levin
(via email only)

Exhibit F



VIA DHL OVERNIGHT AND EMAIL

August 11, 2006

Calvin K. Simshaw
Associate General Counsel - Regulatory
CenturyTel
P.O. Box 9901
Vancouver, WA 98668-8701
Tel 360-905-5958
Fax 360-905-5953
calvin.simshaw@centurytel.com

CenturyTel, Inc.
Attention: Carrier Relations
100 CenturyTel Drive
Monroe, LA 71203

**Re: CenturyTel's Failure to Comply with its Local Number Portability
Obligations in Montana**

Dear Mr. Simshaw:

By attached letter dated July 19, 2006 ("Letter"), and subsequent call on July 20, 2006, IDT America, Corp. ("IDT") gave you notice of CenturyTel of Montana, Inc.'s (CenturyTel") continued failure to meet its local number portability obligations under state and federal laws and in breach of its interconnection agreement with IDT in Montana. Pursuant to that Letter, IDT notified CenturyTel that unless CenturyTel immediately ports the numbers requested, IDT will avail itself of any and all remedies available to it under the law. Although we have provided CenturyTel with ample opportunity to cure its violation of applicable laws and breach of its interconnection agreements, CenturyTel has failed to do so. As stated in the Letter IDT is, in fact, pursuing a petition to initiate an expedited complaint proceeding against CenturyTel with the Public Service Commission of the State of Montana in accordance with Montana Revised Statute Section 69-3-830.

Please do not hesitate to contact us if you have any questions.

Best regards,

A handwritten signature in black ink, appearing to be 'K. Kaplan', with a horizontal line extending to the right.

Kenneth M. Kaplan, Esq.
IDT Corporation

cc: Carrier Relations
CenturyTel
805 Broadway
Vancouver, WA 98660

Tim Sweeney, Attorney
Montana Public Service Commission
(via email only)

Gary Duncan, Rate Analyst
Montana Public Service Commission
(via email only)

Cherie Kiser, Esq.
Mintz Levin
(via email only)

EXHIBIT B



IDT America, Corp.
520 Broad Street
Newark, New Jersey 07102

August 30, 2006

VIA OVERNIGHT MAIL AND EMAIL <calvin.simshaw@centurytel.com>

Calvin K. Simshaw
Associate General Counsel - Regulatory
CenturyTel
P.O. Box 9901
Vancouver, WA 98668-8701

Re: IDT Request for Temporary Porting in Montana

Dear Mr. Simshaw:

This letter confirms your conversation with IDT's counsel, Elana Shapochnikov, of August 23, 2006. During that conversation, Ms. Shapochnikov asked whether CenturyTel would agree to execute IDT's port requests on behalf of CenturyTel customers in Montana pending the outcome of the proceeding initiated by IDT's Amended Complaint against CenturyTel filed with the Montana Public Service Commission ("Commission") on August 22, 2006. IDT understands that CenturyTel has rejected IDT's request to port these consumers' numbers even on an interim basis.

In an effort to secure swift processing of these consumer requests, IDT is making a final written request for CenturyTel to execute IDT's LNP requests for Montana consumers pending the outcome of the above-referenced proceeding. Refusal to honor the requests of these consumers likely will deny them the right to select the service provider of their choice and retain their existing telephone number for upwards of six months while they await the outcome of the proceeding.

By making this repeated request, IDT neither seeks to waive any of the arguments it may have or raise in the proceeding between the Parties, nor does it ask CenturyTel to make such a waiver. IDT is merely requesting that CenturyTel act in the best interest of CenturyTel's Montana customers by fulfilling their requests to have their numbers ported.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Fisher', written over a horizontal line.

Andrew D. Fisher
Associate General Counsel

Attachment 4

P.O. Box 9901
Vancouver, WA 98668-8701
Tel 360 905 5958
Fax 360 905 5953

calvin.simshaw@centurytel.com

Calvin K. Simshaw
Vice President
Associate General Counsel – Regulatory



September 8, 2006

VIA EMAIL AND OVERNIGHT MAIL

Ms. Kate Whitney
Montana Public Service Commission
Utility Division
1701 Prospect Avenue
Helena, MT 59620-2601

Re: CenturyTel's Response and Opposition to Petition Seeking Interim Order
– Docket No. D2006-8-121.

Dear Ms. Whitney:

Enclosed for filing, please find the original plus 10 of CenturyTel's Response and Opposition to Petition Seeking Interim Order in reference to Docket No. D2006-8-121.

Please contact me with any questions on this filing.

Sincerely,

Calvin K. Simshaw
Assoc. Gen. Counsel

CKS/rp
Encl.
cc: Service List

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF CENTURYTEL OF) UTILITY DIVISION
MONTANA, INC., Complaint by IDT America,)
Corp.) Docket No. D2006-8-121

**CENTURYTEL'S RESPONSE AND OPPOSITION
TO PETITION SEEKING INTERIM ORDER**

On August 31, 2006 IDT America, Corp. ("IDT") filed a Petition Seeking Interim Order. IDT requests that the Commission issue an order requiring that numbers be ported to IDT pending a ruling by the Commission on IDT's Complaint against CenturyTel of Montana, Inc. ("CenturyTel") in this docket. CenturyTel opposes this latest petition by IDT and submits that it should be rejected for the reasons described herein including:

- 1) IDT failed to serve its latest Petition on counsel for CenturyTel.
- 2) MCA §69-3-380 is already itself the expedited remedy in this matter.
- 3) Normal operation of Sections 251 and 252 of the Telecommunications Act of 1996 will already allow customers to switch service from CenturyTel to Bresnan while keeping their existing telephone number.

These and other shortcomings of IDT's petition are described in this response.

I. IDT's Failure to Serve its Petition on Counsel for CenturyTel

The manner in which IDT filed this latest petition is very suspect. The petition was filed via hand delivery to the Commission and the Hearing Examiner on August 31, 2006. That is the same day on which the Hearing Examiner conducted the scheduling conference in this matter. Counsel for IDT, Elana Shapochnikov and the undersigned

(Calvin Simshaw), counsel for CenturyTel, were physically present at the scheduling conference. Also present were Mary Wright of the Montana Consumer Counsel's office, Gary Duncan of the Commission Staff and Jerold Lambert, counsel for Bresnan Digital Services, LLC ('Bresnan').

The Hearing Examiner and others present at the scheduling conference had what was presumed to be a good faith discussion identifying and scheduling all necessary steps to litigate this matter. However, it now appears that IDT was not entirely forthcoming in those discussions. IDT was clearly intent on filing that very same day a pleading request that, if granted, would inject new steps and scheduling requirements into the process.¹ For example, the Petition at Paragraph 28 anticipates the need for an additional expedited hearing on this latest filing by IDT. Yet IDT made no reference to this filing at the scheduling conference and thereby denied the hearing Examiner and the other parties the opportunity to incorporate these additional factors into what was already a daunting scheduling task. This was a significant disservice to the hearings Examiner and the Commission.

More importantly, IDT failed to hand deliver a copy of the Petition to the undersigned counsel for CenturyTel that day despite the fact that counsel for IDT and counsel for CenturyTel were face to face for a good portion of the day. In fact, IDT has never served counsel for CenturyTel with a copy of the Petition. IDT cannot claim that it was unaware of the identity of CenturyTel's counsel and therefore had to resort to a generic nameless service to a CenturyTel corporate department, which is in fact what IDT did (see certificate of service attached to the Petition). As has already been mentioned,

¹ IDT's Petition Seeking Interim Order is 13 pages long with 36 footnotes. It obviously was prepared before the scheduling conference that was held the same day it was filed.

IDT was face to face with the undersigned who identified himself as CenturyTel counsel in this matter. It is also the case that the undersigned has previously been identified as counsel for CenturyTel on two pleadings earlier submitted in this matter.² Finally, IDT's Petition itself references at least five different occasions where IDT either sent correspondence to, received correspondence from, or had conversations with the undersigned as CenturyTel's counsel (see for example Exhibit B to the Petition).

IDT's failure to serve the Petition on CenturyTel's counsel can only be interpreted as an attempt to negate or minimize CenturyTel's ability to respond. A party's obligation to serve other parties under ARM 38.2.1205 cannot be fulfilled by making a generic nameless service to a corporate department when the filing party knows full well who specifically is acting as the other party's counsel. IDT's Petition should be rejected for failure to comply with ARM 38.2.1205.

II. **MCA §69-3-830 is the Expedited Remedy Available to IDT**

IDT has already availed itself of the expedited remedy designed to address its complaint. IDT filed its Complaint and Amended Complaint under MCA §69-3-380 which is entitled "Expedited Complaint Proceeding -- Procedure." That statute clearly was designed to provide a special expedited remedy for those petitioners who choose to invoke its specific procedural provisions. The statute lays out very specific guidelines as to how a complaint is to be processed so as to effectuate an expedited ruling. The statute provides that the Commission shall issue a ruling in no more than 120 days from filing of the complaint (§69-3-830 (8)). This is much faster than the Commission would normally process a docket involving complicated issues such as those raised in IDT's complaint.

² CenturyTel's Motion to Dismiss filed August 21, 2006 and CenturyTel Supplement to Motion Dismiss filed August 28, 2006.

MCA §69-3-308 is therefore in and of itself the remedy that the legislature has provided for those disputes that merit expedited treatment by the Commission.

The statute provides a fairly detailed process for the Commission to follow in granting expedited treatment. Had the legislature intended that the Commission also within that process consider interim relief pending what will already be an expedited ruling, the legislature could easily have included such a provision in the statute. It did not include such a provision, nor should it have, given the already expedited nature of proceedings under that statute.

IDT chose to file its Complaint and Amended Complaint under §69-3-830. Having done so, it must now live with the procedures set forth in that statute. To the extent there have been any delays, they have been of IDT's own making.³ The Commission cannot at this stage grant to IDT the very relief it is seeking in the pending complaint. To do so would be to prejudge the matter before CenturyTel has even had a chance to respond to the complaint.⁴ As appropriately noted very recently by the Iowa Utilities Board:

However, the Board believes that when the Complainants request an order granting affirmative relief, rather than one that merely maintains the status quo, they assume a somewhat heavier burden. This is particularly true when the emergency relief they request is substantially the same as the final relief they seek. As Iowa Telecom says, in some respects the Complainants are seeking a preliminary injunction that would grant them the final relief they seek without the necessity of trying the case. It would require a severe and immediate threat to the public health, safety, or welfare to justify that level of relief on an emergency basis.⁵

³ Note the Commission's granting of CenturyTel's Motion to Dismiss the original Petition and Complaint for failure to comply with the statute's noticing requirements. This necessarily led to a restarting of the 120 day clock.

⁴ Under §69-3-830 CenturyTel's response to the Amended Complaint is due September 28, 2006.

⁵ *In re: Sprint Telecommunications Company L.P. and MCC Telephony of Iowa, Inc. v. Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom*; Docket No. FCU 06-49; Order Denying Preliminary Injunction, issued September 5, 2006.

MCA §69-3-380 is the expedited remedy established by the legislature and invoked by IDT. That process is now in full motion. IDT cannot at the same time ask for more. IDT's request for relief that is even more expedited than that provided for in the statute should be rejected.

III. **Customers Desiring to Change Their Local Service From CenturyTel to Bresnan While Keeping Their Existing Telephone Number Can be Accommodated With the Normal Operation of Sections 251 and 252 of the Telecommunications Act of 1996**

In its Amended Petition and Complaint, IDT did actually present a fairly accurate statement of application of law pertaining to Local Number Portability ("LNP") when at Paragraph 11 it states:

Thus, when one of CenturyTel's customers chooses to switch his telephone service from CenturyTel to IDT, and wants to keep his telephone number, CenturyTel is required to port the number so long as IDT has a presence in the rate center.

However, in its Petition Seeking Interim Order, IDT has shifted gears somewhat. Instead of talking about customers who may want to change service from CenturyTel to IDT, IDT is now focused on customers who want to change their service from CenturyTel to Bresnan. Despite IDT's attempt to confuse the issue by intermingling these two different scenarios, there is an important distinction in at least one respect. Whereas, customers desiring to change their service from CenturyTel to IDT should have their number ported pursuant to an interconnection agreement between CenturyTel and IDT; customers desiring to change their service from CenturyTel to Bresnan should have their number ported pursuant to an interconnection agreement between CenturyTel and Bresnan.

To that end, on August 1, 2006 CenturyTel did receive a request from Bresnan to adopt an interconnection agreement with CenturyTel. A copy of Bresnan's letter requesting to enter into an interconnection agreement with CenturyTel in this manner is attached hereto as Exhibit A. CenturyTel sent to Bresnan the paperwork necessary to execute the adoption on the next day, August 2, 2006. Implementation of an interconnection agreement between CenturyTel and Bresnan by this adoption process would cover porting of numbers when a CenturyTel customer seeks to switch service to Bresnan while keeping their existing telephone number. Once the adoption is finalized (i.e. Bresnan returns the necessary paperwork) it can be filed with the Commission for review and approval.

In a good faith effort to expedite this process and accommodate those customers desiring to switch service from CenturyTel to Bresnan as soon as possible, CenturyTel did offer to begin porting numbers just as soon as Bresnan returns the paperwork for the agreement adoption. In other words CenturyTel agreed to port the numbers associated with customers choosing to switch their service to Bresnan even before the Commission had completed its review of the interconnection agreement covering such number porting. In making such offer CenturyTel assumed, under the circumstances, that the Commission would have no problem with such activity occurring before final Commission approval of the interconnection agreement between CenturyTel and Bresnan.

CenturyTel's offer in this regard was presented at the Commission's scheduling conference in this matter held August 31, 2006 at the Commission's office. A copy of the write-up describing the offer that was distributed at that time is attached hereto as Exhibit B. Counsel for Bresnan was present at the conference and reviewed the offer.

Bresnan has to this point rejected the offer. This does not change the fact that a process exists, initiated by Bresnan's August 1, 2006 request for an interconnection agreement (Exhibit A), that would allow numbers to be ported for customers desiring to switch service from CenturyTel to Bresnan. This process would allow the numbers to be ported within the normal flow and application of Sections 251 and 252 of the Telecommunications Act of 1996. More importantly, these numbers could then be ported in a matter of just a few days from now if Bresnan would send back the paper work to adopt the interconnection agreement.

IDT and Bresnan have offered no explanation as to why porting of numbers associated with customers who desire to change their service from CenturyTel to Bresnan could not, or should not occur pursuant to an interconnection agreement between CenturyTel and Bresnan, in other words, the very agreement that Bresnan asked for in its August 1 2006 request (Exhibit A). It is not as if Bresnan is not in the practice of entering interconnection agreements with ILECs. Bresnan has recently executed and filed with the Commission an interconnection agreement with Qwest.⁶

The second scenario would involve customers desiring to change their local service from CenturyTel to IDT. In these instances number porting should occur pursuant to an interconnection agreement between CenturyTel and IDT. Such interconnection agreement between CenturyTel and IDT already exists. However, IDT has made no allegation that there are any CenturyTel customers who have requested to have their local service switched from CenturyTel to IDT and CenturyTel has reason to believe there are no such customers.

⁶ See Notice issued August 30, 2006 In the Matter of the Application of Bresnan Broadband of Montana, LLC and Qwest Corporation Pursuant to Section 252(e) of the Telecommunications Act of 1996 for Approval of their Interconnection and Resale Agreement, Docket No. D2006.8.123.

Therefore, the situation at hand involves only those customers who have requested that their local service be switched from CenturyTel to Bresnan. Porting of numbers for those customers should occur under the normal operation of Section 251 and 252 of the Telecommunications Act of 1996. That is, pursuant to an interconnection agreement between CenturyTel and Bresnan. IDT in its Petition Seeking Interim Order is asking the Commission to circumvent the normal operation of Sections 251 and 252. It has provided no basis for the Commission to do so and the Petition should be denied.

For the reasons stated herein the Commission should reject and Deny IDT's Petition Seeking Interim Order.

Respectfully submitted this 8th day of September, 2006.

CENTURYTEL OF MONTANA, Inc.

By: _____

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Communications

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AUGUST 1, 2006

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

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CenturyTel
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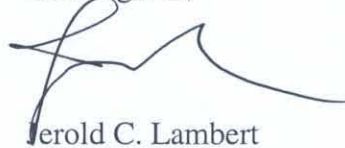
Re: Request for Section 252(i) Adoption to Establish an Interconnection Agreement between Bresnan Digital Services, LLC and CenturyTel of Montana, Inc. for the State of Montana

Dear Ms. Phillips:

Bresnan Digital Services, LLC parent of Bresnan Broadband of Montana, LLC ("Bresnan"), by its attorneys, hereby seeks to exercise its rights under Section 252(i) of the Communications Act of 1934, as amended ("Act"), and Section 51.809 of the Federal Communications Commission's rules^{1/} to adopt the interconnection agreement between CenturyTel of Montana, Inc. ("CenturyTel") and IDT America, Corp. filed with the Montana Public Service Commission ("Commission") on April 20, 2006 ("Agreement").

Attachment 1 to this letter contains the information necessary for processing Bresnan's adoption of the Agreement. Please provide us with the necessary documentation for review and signature within ten (10) days. If you have any questions regarding this request, please contact us. We appreciate your prompt attention to this matter.

Best regards,



Jerold C. Lambert
Associate General Counsel

cc: Leonard Higgins
Kathy Kirchner
Robert Bresnan
Walter Eggers

^{1/} 47 U.S.C. § 252(i); 47 C.F.R. § 51.809.

Attachment 1

Section 252(i) Adoption Information for Bresnan Digital Services, LLC

Legal name: Bresnan Digital Services, LLC

Corporate information: Bresnan Digital Services, LLC

Principal Place of Business: 1 Manhattanville Road
Purchase, NY 10577

Contacts for notices: Jerry Lambert
1 Manhattanville Road
Purchase, NY 10577
(914) 641-3338
(914) 641-3438
jlambert@bresnan.com

with a copy to: Kathy Kirchner
Bresnan Communications
1860 Monad Road
Billings, MT 59102

INTERIM NUMBER PORTING PROPOSAL

Proposed by CenturyTel of Montana 8-31-06

On August 1, 2006 Bresnan Communications submitted a request to CenturyTel of Montana to adopt an existing CenturyTel interconnection agreement. That agreement would cover provision of local number porting.

On August 2, 2006 CenturyTel sent to Bresnan the paper work to execute such an adoption.

In anticipation that the Montana Commission would approve such an adoption, CenturyTel would agree to immediately port numbers associated with customers desiring to change their service from CenturyTel to Bresnan upon occurrence of the following:

- Bresnan executes and returns to CenturyTel adoption of the interconnection agreement.

- CenturyTel would not delay such porting for review and approval of the adoption by the Montana Commission.

- CenturyTel would not delay such porting pending final resolution of this docket.

- CenturyTel would process porting requests from Bresnan pursuant to the interconnection agreement, or

- CenturyTel would process porting requests submitted by IDT on Bresnan's behalf if Bresnan indicates that IDT is acting as its authorized agent for purposes of submitting number porting requests associated with customers requesting to change their service from CenturyTel to Bresnan.

In this way customers desiring to change their service from CenturyTel to Bresnan and retain their current telephone number could do so in a matter of a few days.

Attachment 5

September 12, 2006

Kate Whitney
State of Montana
Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

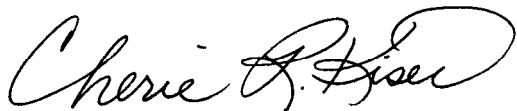
RE: Docket No. D2006.8.121 - IDT's Reply to CenturyTel's Opposition

Dear Ms. Whitney:

Please find enclosed the original and ten copies of IDT America, Corp.'s ("IDT") Reply to CenturyTel of Montana, Inc.'s Response and Opposition to IDT's Petition Seeking Interim Order in the above proceeding.

This Reply is being mailed to the parties identified on the Certificate of Service enclosed. Should you require any additional information, please contact Elana Shapochnikov at (212) 692-6275.

Respectfully submitted,



Chérie R. Kiser

Counsel for IDT America, Corp.

cc: Service List

WDC 390597v.1

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF CENTURYTEL OF	)	UTILITY DIVISION
MONTANA, INC., Petition by IDT America,)	
Corp. Requesting the Commission	)	Docket No. D2006.8.121
To Order CenturyTel to Honor IDT's Requests for)	
Local Number Portability Pending the Outcome of)	
IDT's Complaint Against CenturyTel)	

IDT'S REPLY TO CENTURYTEL'S OPPOSITION TO IDT'S PETITION SEEKING AN INTERIM ORDER

IDT America, Corp. ("IDT") files this Reply to CenturyTel of Montana, Inc.'s ("CenturyTel") Opposition filed with the Public Service Commission of the State of Montana ("Commission") on September 8, 2006 ("Opposition") in response to IDT's Petition Seeking Interim Order ("Petition") filed August 31, 2006.^{1/} CenturyTel's Opposition should be denied because:

- 1) IDT timely served CenturyTel and the inadvertent additional copy to Mr. Simshaw amounts to an error that should be disregarded;
- 2) CenturyTel has offered no legal support for its claim that MCA §69-3-830 prevents the interim relief requested by IDT's Petition; and
- 3) CenturyTel is in violation of the law; it cannot deny number portability to CenturyTel customers or ignore IDT's request to have those customers' numbers ported.

I. IDT Timely Filed Its Petition

Contrary to CenturyTel's characterization, there was nothing "suspect" or nefarious about the manner in which IDT filed its Petition. Pursuant to the Commission's rules, pleadings must

^{1/} IDT received a mailed copy of CenturyTel's Opposition on September 11, 2006.

be served by first class mail on all identified parties by the pleading party^{2/} before or concurrently with their filing with the Commission.^{3/} Nothing in the Montana Statutes or Commission rules requires service by personal hand delivery to opposing Counsel. Service is deemed concurrent if mailed the same day that the pleading is filed with the Commission.^{4/} IDT's Petition was filed when it was finalized, which was late in the day on August 31, 2006. IDT made a special effort to remain and file it by hand out of courtesy to the Commission since IDT counsel was in Montana. Although IDT inadvertently did not list Mr. Simshaw's name on its service list, IDT sent two copies of its Petition to the addresses listed in IDT's Interconnection Agreement with CenturyTel via overnight delivery that same day.^{5/} One of the addresses that IDT used is the same as the address listed for Mr. Simshaw on the signature page of CenturyTel's Opposition.

Montana Consumer Counsel, who was also present at the August 31, 2006 scheduling conference, was served in the same manner as CenturyTel. Montana Consumer Counsel did not object to service and filed in support of IDT's Petition on September 8, 2006. Most importantly, CenturyTel does not allege that it did not receive IDT's Petition or provide any concrete examples of prejudice it may have suffered. Indeed, CenturyTel has responded to the Petition well within the required 20-day period.^{6/} Pursuant to Montana law, any such oversight must be liberally construed because "errors or defects [] which do not mislead or affect the substantial

^{2/} Mont. Admin. Register § 38-2-1205(2).

^{3/} Mont. Admin. Register § 38-2-1205(3).

^{4/} Mont. Admin. Register § 38-2-313 (b).

^{5/} Interconnection Agreement between CenturyTel and IDT dated March 31, 2006, Article III § 31.

^{6/} Mont. Admin. Register § 38-2-1208.

rights of the parties involved shall be disregarded.”^{7/} The inadvertent exclusion of Mr. Simshaw from the service list was unintentional and did not affect any of CenturyTel’s substantial rights and does not support a denial of the Petition. Going forward, IDT commits to serve all pleadings directly on CenturyTel counsel, Mr. Simshaw.

II. The Commission Has Authority to Grant the Relief Requested in the Petition

The Expedited Complaint procedures do not limit IDT’s ability to seek redress for Montana customers through the instant Petition.^{8/} CenturyTel confuses the requests sought by the Petition and in the IDT Amended Complaint. While both IDT’s Amended Complaint and the Petition arise from the same CenturyTel violation of its porting obligations, they seek different relief. IDT’s Amended Complaint seeks a final order requiring CenturyTel to comply with its federal, state, and interconnection obligations to port on a permanent basis, while IDT’s Petition seeks an Interim Order from the Commission to provide relief to Montana consumers seeking to port their numbers in the interim while IDT’s Amended Complaint is pending. CenturyTel does not dispute the statutory authority cited by IDT in its Petition in support of the Commission’s authority to provide consumers with the requested interim relief.

Indeed, CenturyTel appears to recognize its obligation to port consumers’ numbers based on its proposed settlement. Its real issue is that it wants to dictate how porting requests will be made on behalf of consumers before it will honor those requests.^{9/} The purpose of the Act and the FCC rules is to protect consumers from this kind of anti-competitive interference by carriers in the selection of service providers. It is in the public interest that numbers be ported upon

^{7/} Mont. Admin. Register § 38-2-1206(1). “Any pleadings and documents shall be liberally construed and any errors or defects therein which do not mislead or affect the substantial rights of the parties involved shall be disregarded.”

^{8/} Opposition at 4.

^{9/} See, Petition Exhibit B containing IDT’s settlement proposal dated August 30, 2006 and CenturyTel’s response in its Opposition (pages 5-8).

request of consumers. CenturyTel has presented no authority to support its decision to ignore the law.

Grant of IDT's Petition would not pre-judge the outcome of IDT's Amended Complaint. The Commission can issue an Interim Order without prejudice to any decision it may release on IDT's Amended Complaint. The only support for denial of an interim order offered by CenturyTel is a decision by the Iowa Utilities Board,^{10/} which is distinguishable from the instant Petition, irrelevant to the Commission's decision on the Petition, and does not bind the Commission.^{11/} CenturyTel has failed to offer any relevant legal authority that would support a denial of IDT's Petition.

In addition, because consumers continue to be harmed by CenturyTel's failure to port and IDT's request is interim in nature, IDT urges the Commission to act swiftly on IDT's Petition, without a hearing, consistent with past practices on similar requests. The Commission has a long history of issuing Interim Orders without hearings to protect consumers pending hearings or final orders.^{12/}

^{10/} *In re: Sprint Telecommunications Company L.P. and MCC Telephony of Iowa, Inc. v. Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom*; Docket No. FCU 06-49; Order Denying Preliminary Injunction, issued September 5, 2006.

^{11/} Opposition at 4. The Iowa case cited by CenturyTel involved Petitioner's failure to meet its burden for emergency injunctive relief to enforce an arbitration agreement under specific provisions of the Iowa Code. Neither the facts of the Iowa case, nor the Iowa Code applies to IDT's Petition in Montana.

^{12/} See e.g., *In the Matter of NorthWestern Energy, Annual Application for Approval of Monthly Gas Tracker True-Up, Projected Gas Costs and Gas Transportation Balance*, Order No. 6741a in PSC Docket No. D2006.5.58, service date June 30, 2006 (permitting use of an interim tracking methodology and interim rates pending a hearing or final order); *In the Matter of NorthWestern Energy, Montana-Dakota Utilities Co., and Energy West Montana, Expansion of Winter-Months "Moratorium" on Termination for Qualifying Customers*, Order No. 6696 in PSC Docket No. D2005.9.145, service date September 28, 2005 (ordering expanded protection for customers on an interim basis without a hearing to relieve increased burdens on customers in remedying bill deficiencies and obtaining restored service until further action by the Commission); *In the Matter of Tariff Transmittal QCC03-01 by Qwest Communications Corporation Initial Tariff and Price List for Qwest Communications Corporation*, Order No. 6523c in PSC Docket No. D2003.10.153, service date February 20, 2004 (approving a tariff on a limited interim basis pending the outcome of the hearing in that docket); *In the Matter of Application of US WEST Communications, Inc. for Authority to Flexibly Price Regulated Telecommunications Services in Certain Local Exchanges*, Order No. 5998a in PSC Docket No. D97.7.125, service date August 29, 1997 (authorizing flexible pricing on an interim basis pending a hearing and final order).

III. CenturyTel is in Violation of the Law; It Cannot Dictate Direct Interconnection or Deny Non-Carriers Access to Interconnection Services

As illustrated in Exhibit B to IDT's Petition, IDT counsel contacted CenturyTel's counsel on August 23, 2006 (a full eight days before the scheduling conference) in a good faith effort to encourage CenturyTel to port the numbers of its Montana customers on an interim basis pending the outcome of IDT's Amended Complaint in Docket D2006.8.121. CenturyTel refused. On August 30, in a final good faith attempt to help Montana consumers exercise their right to port their numbers to the service of their choice, IDT sent CenturyTel a letter reiterating its request. On August 31, 2006, during the scheduling conference on IDT's Amended Complaint, CenturyTel essentially refused IDT's informal request to grant Montana consumers interim relief when it presented its "settlement" offer to IDT. This offer is unacceptable because it fails to acknowledge CenturyTel's legal obligation to port numbers as a carrier.^{13/} CenturyTel and every local exchange carrier must port numbers whether they are porting the numbers for a direct customer of a carrier or indirectly for the carrier's customer's subscribers.

Despite the clarity of the law, CenturyTel states that it will only port numbers if Bresnan signs an Interconnection Agreement. CenturyTel's response fails to address all of the case law and legal precedent cited in IDT's Petition and Amended Complaint outlining CenturyTel's

^{13/} CenturyTel and IDT are obligated under the law to fulfill requests to port customer numbers. 47 U.S.C. § 251(b)(2). Local number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(k). Any "wireline carrier that is certified (or has applied for certification) to provide local exchange service in any state ... must be permitted to make a request for deployment of number portability." 47 C.F.R. § 52.23(b)(2)(i). "All facilities-based LECs shall provide number portability so that end users may retain the same telephone number as they change from one service provider to another as long as they remain at the same location or if moving, retain the same NXX code." Mont. Admin. Register § 38-5-4074. Adopting the 1996 Act's definition of number portability, the Montana Administrative Code defines "number portability" as "the ability of users of telecommunication services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another." Mont. Admin. Register § 38-5-4002(16).

obligations to port its customers' numbers to the service of their choice. CenturyTel further ignores Bresnan's end user status as a voice over Internet protocol ("VoIP") service provider and fails to address its violations of federal and Montana laws cited throughout IDT's Petition. CenturyTel's arguments amount to nothing more than a request to deny Montana customers their right to port their numbers simply because CenturyTel says so.

CenturyTel repeats that IDT has made no "allegation that there are any CenturyTel customers who have requested to have their local service switched from CenturyTel to IDT and CenturyTel has reason to believe there are no such customers."^{14/} CenturyTel's statement is precisely the basis of IDT's complaint. As stated in IDT's Petition and Amended Complaint, CenturyTel has no right to question the identity of IDT's customers when a local number portability request is made and IDT has no obligation to identify its customers to CenturyTel prior to requesting a port on their behalf. Acceptance of CenturyTel's settlement would gut the requirements of § 251(a), which permits direct or indirect interconnection, the *Vonage Order*, and the *E911 Order*.^{15/} Carriers are required to provide interconnection services directly or indirectly. Those service providers who do not have rights as carriers under § 251 such as interconnected VoIP service providers and information service providers, who are dependent on transmission and interconnection related services in order to offer their services to their subscribers, cannot be denied service because they are not carriers. Moreover, carriers, who do have interconnection rights under § 251, cannot be forced to directly interconnect to obtain service as CenturyTel suggests Bresnan must do. It is as if CenturyTel is in denial of the

^{14/} Opposition at 7.

^{15/} See, 47 U.S.C. § 251(a); *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Memorandum Opinion and Order, 19 FCC Rcd. 22404, 22404-05, ¶ 1 (2004) ("*Vonage Order*"); *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and NPRM, 20 FCC Rcd. 10245 (2005) ("*E911 VoIP Order*").

existence of legal precedent spanning the past twenty years. If CenturyTel's inaccurate representation of the law as set forth in its settlement proposal and Reply were permitted to prevail, only those Montana state registered carriers directly interconnecting with CenturyTel would receive the benefits of § 251 of the Act. This interpretation of the law is wrong based on the plain language of the statute, the FCC's implementing rules, and well-developed case law,^{16/} is inconsistent with the goal to promote competition for the benefit of consumers, and likely accounts for CenturyTel's failure to provide any relevant legal support.

Montana customers should not be denied their right to port their numbers because of CenturyTel's unilateral actions that are based on unfounded and inaccurate interpretations of law. CenturyTel must execute all ports made by its customers through IDT. As stated in IDT's Petition, CenturyTel may only be excused from market opening requirements, such as number portability, by petitioning the Commission for a suspension or modification of its § 251(b) obligations.^{17/} CenturyTel has filed no such petition.^{18/}

In light of the foregoing, IDT respectfully requests the Commission reject CenturyTel's Opposition to IDT's Petition and require CenturyTel to honor all local number portability

^{16/} 47 U.S.C. § 251 (a)(1) ("Each telecommunications carrier has the duty...to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers..."; *In re Telephone Number Portability*, First Report and Order & Further Notice of Proposed Rulemaking, 11 FCC Rcd. 8352 ¶ 2 (1996) ("*First Report and Order*"); Telephone Number Portability, CC Docket No. 95-116, *Second Report and Order*, 12 FCC Rcd. 12,281 (1997) ("*Second Report and Order*") (The Federal Communications Commission ("FCC") adopted broad porting requirements, noting that "as a practical matter, [the porting obligation] requires LECs to provide number portability to other telecommunications carriers providing local exchange or exchange access service within the same MSA."); *In the Matter of Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, Memorandum Opinion and Order & Further Notice of Proposed Rulemaking, 18 FCC Rcd. 23697 ¶ 6 (rel. Nov. 10, 2003) ("*Wireless-to-Wireless Order*") ("[A]ny wireline carrier that is certified ... to provide local exchange service, or any licensed CMRS provider, must be permitted to make a request for the provision of number portability." And clarifying that wireline carriers may not require wireless carriers to enter into interconnection agreements as a precondition to porting between the carriers.)

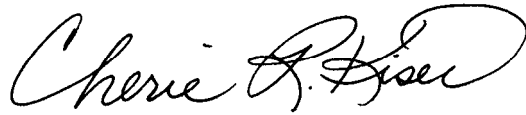
^{17/} 47 U.S.C. § 251(f) (2) (providing that a local exchange carrier with less than two percent of the Nation's subscriber lines may "petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c)").

^{18/} IDT Amended Complaint ¶ 26; Petition ¶ 24.

requests made by CenturyTel customers as submitted by IDT pending a ruling on IDT's Amended Complaint against CenturyTel in Docket No. D2006.8.121 and grant to IDT any and all other relief to which it may be entitled.

Respectfully submitted this 12th day of September, 2006.

IDT America, Corp.



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DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF CENTURYTEL OF	)	UTILITY DIVISION
MONTANA, INC., Petition by IDT America,)	
Corp. Requesting the Commission	)	Docket No. D2006.8.121
To Order CenturyTel to Honor IDT's Requests for)	
Local Number Portability Pending the Outcome of)	
IDT's Complaint Against CenturyTel)	

CERTIFICATE OF SERVICE

I hereby certify that I have caused copies of the IDT's Reply to CenturyTel's Opposition to IDT's Petition Seeking an Interim Order to be served by overnight mail on this date to the Parties as shown below:

Kate Whitney (original plus 10 copies)
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By: _____

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